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Senate Hearings

Before the Committee on Appropriations

Departments of Labor and Health, Education, and Welfare and Related Agencies Appropriations

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Fiscal Year 1979

95*th* CONGRESS, SECOND SESSION

PART 1 (Pages 1–647)

DEPARTMENT OF LABOR
RELATED AGENCIES
SUPPLEMENTALS, FISCAL YEAR 1978

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DEPARTMENTS OF LABOR AND HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1979

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE

COMMITTEE ON APPROPRIATIONS

UNITED STATES SENATE

NINETY-FIFTH CONGRESS

SECOND SESSION

Part 1—(Pages 1–647)

DEPARTMENT OF LABOR

Related Agencies

Supplementals, Fiscal Year 1978

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DEPARTMENTS OF LABOR AND HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1979

THURSDAY, JANUARY 26, 1978

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 10 a.m. in room S–128, the Capitol, Hon. Edward W. Brooke presiding.

Present: Senators Brooke and Chiles.

COMMUNITY SERVICES ADMINISTRATION

STATEMENT OF GRACIELA OLIVAREZ, DIRECTOR

ACCOMPANIED BY:

WILLIAM W. ALLISON, DEPUTY DIRECTOR
JOHN GABUSI, ASSISTANT DIRECTOR FOR MANAGEMENT
ROBERT SMITH, ASSISTANT DIRECTOR FOR THE OFFICE OF COMMUNITY ACTION
FRANK JONES, ASSISTANT DIRECTOR FOR LEGAL AFFAIRS
R. THOMAS ROLLIS, CONTROLLER
ROBERT LANDMANN, ASSISTANT DIRECTOR FOR POLICY, PLANS, AND EVALUATION

OPENING REMARKS

Senator BROOKE. The subcommittee will come to order.

Today we begin the first of our many hearings on the fiscal 1979 budget requests for the Departments of Labor and Health, Education, and Welfare and related agencies.

This bill is the largest appropriations bill to be considered by Congress. The funding requests we will consider over the next several months total more than $73.6 billion. Including trust fund expenditures, the Labor-HEW bill exceeds $197 billion, which, of course, would make it—as I said—the largest appropriations bill.

This measure is one of the most important in the Federal Government, for the programs it contains touch the lives of nearly every man, woman, and child in the country. It also is highly controversial because the bill has become the vehicle for legislative riders ranging from abortion and busing to efforts to weaken the occupational safety and health law.

This inevitable controversy, and the large number of agencies and programs which must be considered, place a heavy burden on

the subcommittee. We are under severe constraints to complete all of our hearings in a timely manner.

So, I would ask that all of our witnesses confine their opening statements to brief summaries to allow as much time as possible for questions.

Today we will hear from officials of several of the related agencies.

Our first panel of witnesses is from the Community Services Administration.

CSA is the primary antipoverty agency of the Federal Government. It is the main source of funding for hundreds of Community Action agencies around the country.

These agencies operate a wide array of programs—from food and nutrition to weatherization of low-income homes—to help poverty-stricker. Americans. Yet once again we are faced with a budget request that seeks to cut back on overall antipoverty efforts. The current request proposes an appropriation of $538 million, a $60 million decrease from the fiscal 1978 level of $598 million.

The budget would increase local initiative by only 3 percent—half the amount necessary to keep pace with inflation. It also proposes to cut back funds to State economic opportunity offices, to food and nutrition programs, and to economic development, and would transfer energy programs to other agencies. But, despite a proposed 10-percent reduction in program funds, the budget inexplicably would increase administrative costs.

Here to explain the rationale for these program cuts is Dr. Grace Olivarez, the CSA Director. Dr. Olivarez, I believe this is your first appearance before this subcommittee as CSA Director, since you had not been appointed at the time of your agency's hearings before us last year. I know of your splendid background and welcome you.

You may introduce your associates and proceed.

Ms. OLIVAREZ. Thank you, Senator.

INTRODUCTION OF ASSOCIATES

On my left is Mr. William Allison, Deputy Director of the CSA. On my right is John Gabusi, Assistant Director for Management, formerly known as Administration, at CSA.

PREPARED STATEMENT

I have a written opening statement, but I will enter it for the record, if there is no objection.

Sentor BROOKE. That is not it; is it? [Pointing to large reference notebook.]

Ms. OLIVAREZ. No. [Laughter.]

[The statement follows:]

PREPARED STATEMENT OF GRACIELA OLIVAREZ

Mr. Chairman, members of the subcommittiee, I appreciate the opportunity to present the 1979 budget request for the Community Services Administration.

In his Inaugural Address last year, President Carter stated, "We reject the prospect of failure or mediocrity or an inferior quality of life for any person." From my position as Director of the Community Services Administration, I have viewed that statement as a commitment to a vigorous new effort to combat poverty in the United States. I am happy to say this view is supported by the President's budget request for CSA for Fiscal Year 1979.

The requested amount, $538 million, is the highest in 6 years and supports that commitment. The process by which that sum was determined indicates a careful study of the needs and realities connected with CSA-supported activities.

For example, funds for Community Action Programs are being increased by $12 million. This reflects a need to strengthen the smaller Community Action Agencies and to consolidate gains expected during Fiscal 1978. Additional strength for the CAA network will come from the emphasis we intend to put on technical assistance and evaluation. Funds for these necessities have been almost nonexistent for years. In the FY '79 budget, they total $6.1 million.

Locally planned and operated Community Action Programs have long since proved to be the most effective mechanism for

facilitating the delivery of services to low-income families and individuals. Indeed, the Community Action process has become the basic pattern followed by virtually every Federal grantmaking agency. However, experience has shown that we cannot rest in our search for more specialized approaches to particular problems. In the past, demonstration projects funded by our Agency have produced such landmarks in human service programming as Head Start, Legal Services and Foster Grandparents. The requested R&D budget figure of $18.4 million will permit CSA to reopen its laboratory, so to speak, to test other innovative concepts.

Thus far, I have spoken only of requested increases. In the President's plan for CSA, some programs will be cut back--not because they are no longer important, but because conditions now indicate that CSA can and should share their continuation with others. Weatherization, for example, rightfully belongs under the jurisdiction of the Department of Energy. Our Agency pioneered in this area during the fuel crisis of 1973, long before energy became a Cabinet-level concern. With the $10 million requested for Energy Conservation, CSA will still be able to carry on with technical assistance, crisis intervention and demonstration projects related to the energy needs of low-income Americans.

Decreased Federal funding for State Economic Opportunity Offices is, quite simply, a recognition of the states' responsibility to share equally in the cost of this program.

The lower amount for nutrition programs in the new budget is based on the increased outreach efforts by the

Department of Agriculture which reduces the necessity for the CSA to provide these same services.

The largest decrease in funds for Fiscal '79 will occur within CSA's Economic Development Program. This is in part a response to concerns expressed by some members of Congress and in part a desire by CSA to concentrate on productive programs while exploring alternative approaches to the goals of community economic development. To the extent possible, CSA will also assist its grantees in this field to locate other sources of financing.

Of course, Mr. Chairman, agency directors always think their particular endeavors deserve higher appropriations. However, I sincerely believe that the $538 million requested by President Carter will enable CSA to meet its obligations to Congress, to the taxpayers and, above all, to the 26 million Americans who stand in need of our assistance.

OPENING REMARKS

Ms. OLIVAREZ. Now, let me just summarize.

In the last 9 months I feel that we have completed a period of gestation and are about to deliver something positive in our 1979 budget. In the last 9 months we have made a lot of field trips to look at our projects. We have conducted 10 public hearings in each one of the Federal regional areas to hear from the poor people themselves.

There is a lot of truth to the Biblical quotation that the poor you shall always have with you because there will always be the helpless, but we reject that the poor must also be hungry, cold, unemployed, undereducated, and ill-housed, and with lack of water facilities, with lack of medical facilities.

COMMUNITY ACTION

For that reason we still feel that Community Action agencies are the best approach to delivery of services to those persons who need the kinds of services that Community Action agencies can deliver at the local level by attracting money from other Federal agencies who don't have the delivery mechanism.

I should point out, Senator, that poverty, as you well know, is a complex and intense human problem. Perhaps there is no perfect program. Certainly it is doubtful that we could ever make everybody understand that the poor are not dumb, are not shiftless, and are not abusive.

CSA and this administration is committed to do as much as possible to bring all our citizens out of poverty. We know it is a chore; we know it is a long-distance race; we know it is quite solitary and very exhausting.

I say solitary because in these days of fashionable pessimism we find very, very few persons willing to understand the complexity of the problem, that it defies solution by any single approach.

For this reason we feel we need to continue to experiment with programs and approaches. We need to continue to learn and expand our knowledge of how best to make real progress against those social ills that have stubbornly defied solutions.

DEMONSTRATIONS

In our 1979 budget we are requesting a small amount of money for these kinds of experiments.

There has been very little tried by CSA in the last few years. In requesting this money we are also requesting two things; one, that it not be earmarked, to give us an opportunity to try new approaches; and second, that we be allowed to come back and tell you if we have failed and not to play games by trying to sell a failure. We believe that even in a failure we will have learned something.

In addition to that we have asked for an increase in our local initiative funding because the Community Action agencies with 13 years of experience are still the best vehicle for other agencies to funnel programs and services to poor people at the local level. They continue to be locally controlled; they continue to reflect local needs.

EVALUATION

We are also asking for money for evaluation. I have discovered during the 9 months that I have been in Washington that once a program gets funded it is going to live forever whether it is good or not without evaluation. Because we at CSA are supposed to be an experimental agency, a laboratory, we are not afraid to go out and evaluate some of our programs and make some determinations as to whether they are good or not.

As of right now, very little, if any, evaluation has been done but we continue to support programs without having measured their effect in reaching poor people.

TECHNICAL ASSISTANCE

In addition to that, we have discovered that very little training has taken place in the last few years. We are asking for some money for training and technical assistance.

If we are really sincere about citizens' participation we need to give citizens some tools and know-how to participate in the system, both in their communities and within the poverty program, to learn how to understand just what their role and power and rights are at the local level.

ECONOMIC DEVELOPMENT

In addition to that—we noticed you mentioned it—there is a major reduction in the Community Development Corporations. Let me say, Senator, that I personally feel the Community Development Corporations are probably the most exciting thing that has happened at CSA in the last 10 years.

Unfortunately, the program did not have the talent, the guidance, the support or supervision it deserved. Consequently, the true story of the Community Development Corporations has never been told.

However, we at CSA feel we need to take the short time in 1979 to take a long, hard look at what has worked and what hasn't worked, and then come back with that report. I wish we had the time for you to hear just how exciting Community Development Corporations are in that they have created close to 16,000 jobs over the last few years—these are permanent jobs with career ladders. They are not trash pickers or alley cleaners—that but for Community Development Corporations would not exist.

Some jobs created have been indirect, or CDC-related jobs. But I think because we feel that it is a very exciting program, we want to be sure that we have ironed out all the wrinkles in the program, and would like to take 1 year off from new funding, new planning grants, and then come back and show the country that low-income people, poor people in a united fashion, can turn their neighborhoods around, can create their own employment, can manage their own ventures and can in essence become very successful capitalists.

STATE ECONOMIC OPPORTUNITY OFFICES

In addition to that, we did, if you notice, reduce the request for State offices. It is our belief that State government has to be a

partner in addressing the problems of poverty in their own jurisdictions. For this reason we are not only going to evaluate some of the SEOO's, but we also want State governments to let us know just how far their commitments go and are they willing to share 50–50 with us in order to have a State office, and just what kind of role do they see that State office playing.

ENERGY CONSERVATION

We will continue to assist low-income people with a small amount of money, $10 million, on energy crisis type of problems. But again, because the agency is supposed to be the experiment station and the laboratory for programs to help poor people, and because we feel that we have proven that weatherization is a good program and successful, we are now sending it off to the Department of Energy to avoid the duplication and the overlapping of programs.

The Department of Energy will use the Community Action agencies to funnel the weatherization money to local communities.

I believe as a result of spinning it off to the Department of Energy there will be a lot more money available now for weatherization than was available under our program.

EFFECTIVENESS OF PROGRAM

Senator BROOKE. Will the program be as effective?

Ms. OLIVAREZ. If it is channeled through the Community Action agencies I have no doubt that it will continue to be effective because it will be run by the Community Action agencies at the local level and they are the ones who have been administering these programs at the local level.

Senator BROOKE. What is wrong with having the appropriations go through CSA rather than the Department of Energy?

Ms. OLIVAREZ. Well, the idea is to have all related energy programs under one Department of Energy rather than a bit at CSA and other bits at the Department of Energy.

The idea of eliminating duplication and overlap is the reason for sending the program over to the Department of Energy.

INVOLVEMENT OF ENERGY DEPARTMENT

Senator BROOKE. Won't there be overlapping anyway if CSA is actually going to administer the programs?

Aren't you just funneling the money through the Department of Energy? Wouldn't it be just a conduit? I am not sure it is clear how the program would actually work.

Isn't the Department of Energy merely another layer of Government? Won't the money end up with CSA actually doing the work?

Ms. OLIVAREZ. It will not end up with our agency. It will end up with the Community Action agencies directly.

Senator BROOKE. I would just question whether the Department of Energy has the expertise to help administer such programs.

Ms. OLIVAREZ. Well, we will make it available to them.

Senator BROOKE. I think we already have that expertise in CSA. Why now transfer that to the Department of Energy?

Ms. OLIVAREZ. Because I don't think that the Community Services Administration should be a large agency administering a variety of programs.

I think that the other agencies need to start assuming some of the responsibility. They have more money than we do, they have more staff than we do, and——

Senator BROOKE. They have more money if it is taken from you and given to them. Isn't that what you are telling me? I see nothing wrong with having the money remain in CSA. Why give it to the Department of Energy? The Department of Energy has had no experience whatsoever to my knowledge in dealing with the poor—working with the poor.

Now you tell me Energy is going to delegate this authority anyway, this responsibility, to CSA.

Ms. OLIVAREZ. No, to the Community Action agencies.

Senator BROOKE. All right; is that right?

Ms. OLIVAREZ. Right. But we are available to the Department of Energy to educate them on how to deal with problems of poor people.

Senator BROOKE. All right.

Obviously we differ in our opinion as to who is best equipped to do this job. I feel CSA is best equipped to do it. Some people feel the Department of Energy is best equipped to do it.

If the Department of Energy is going to delegate it to the Community Action agencies anyway, I just don't see the reason for giving the Department of Energy the money. It is an energy problem, to be sure.

But it is also a problem dealing with poor people. And the problem of dealing with poor people would better be addessed, in my opinion, by Community Action agencies than the Department of Energy.

And therefore I think that should be more controlling than the fact that this is an energy-related matter under the Department of Energy. I don't see that there is great need to put all the energy matters into the Department of Energy.

I am sure if I were to look further I would find many energy-related matters that are not going to be placed in the Department of Energy for obvious reasons.

Ms. OLIVAREZ. Well, we are requesting $10 million for the crisis intervention type of activity that will be administered by CSA.

COMMITMENT TO COMBAT POVERTY

Senator BROOKE. But you know, you said that you made a renewed commitment to combat poverty. As I pointed out to you at the beginning, the budget request proposes a reduction or virtually level funding for nearly all of your programs.

Now can you explain to me how this budget is consistent with the administration's characterization of the request as a renewed commitment to combat poverty?

Ms. OLIVAREZ. In this manner.

The agency during its most exciting days gave birth to programs like Head Start, Job Corps, Legal Services, VISTA. You know the list.

Senator BROOKE. Excellent programs in the main.

Ms. OLIVAREZ. Right. They were sent off to other agencies to administer. Job Corps, I understand, is about to expand, which means that they may have gone through a period of adjusting when they were transferred to the Labor Department; but in any event, I think that the transfer has made the Labor Department a little bit more sensitive and aware of the problems of poor people.

In addition to that, by continually creating programs and keeping them at CSA, I feel very strongly that we wind up subsidizing some of the other agencies because they have been so recalcitrant in dealing with poor people.

The feeling is that there is an agency that is supposed to deal with the problems of poverty and we are supposed to solve the problems of poverty.

But the other agencies have the money. And they have the manpower and they also have responsibility. We should not be running education programs. They ought to be run out of the Office of Education.

Just like people put pressure on us to fund projects that we do not want to fund, I think pressure ought to be put on those agencies to really take a long, hard look at their responsibility to poor people, because we are constantly dividing the poor.

I do think we need to start sharing the responsibility and the money so that, together, we can address the needs.

I think the money is there. In fact we are very involved right now in interagency agreements because if we are going to pilot and experiment the agency that is eventually going to inherit the program has to get in on the ground floor with us as we develop it.

We just signed a contract with the Social Security Administration to be sure that we are reaching everybody that is eligible and that they know exactly what the procedure is.

We are doing this jointly with the Social Security Administration because eventually they are going to have to pick up their share of doing outreach.

ORIGINAL AGENCY REQUEST

Senator BROOKE. You said these agencies have the money yet you have requested less funds, so they will be getting more money. What was your agency's total request to OMB?

Mr. GABUSI. It was $636 million.

Senator BROOKE. You got $538 million. What was the total request again?

Ms. OLIVAREZ. $636 million.

Senator BROOKE. OMB cut you down $98 million; is that correct? Can you break that down?

Mr. GABUSI. Our request for local initiative was $404.1 million. Senior opportunities and services, $11 million. State economic opportunity offices, $12 million. Sports, $6 million. Summer recreation program, $19 million. Community food and nutrition program, $30.5 million. Energy conservation program, $25.3 million. Migrant program, $10 million. Training and technical assistance, $3 million. Community economic development, $54.6 million. Rural housing, $10 million. Research and demonstration, $10 million. Evaluation, $7.9 million. Program administration, $33 million.

Senator BROOKE. $7 million requested for evaluation; you got cut to $3.1 million. That is half of what you estimated you would need for the evaluation program.

Economic development was cut more than in half. Every year we have had amendments on the floor here to increase that.

The 1978 funding level was $48 million. Now you're requesting only $25 million.

State economic opportunity offices, funding was $12 million. I think you requested $12 million. Is that right?

Ms. OLIVAREZ. That's right.

Senator BROOKE. That is cut to $7.5 million.

You really have sustained rather drastic cuts in very, very important programs. I don't think you have explained to my satisfaction just why, if you are going to carry on programs even at the level of 1978, without any inflation added in, your budget is reduced so much; $98 million is a hefty cut from your own proposals. I'm not sure I agree with your own budget requests. I know we don't have all the money in the world to spend, for sure. But many of these programs are going to suffer. We have to consider what is submitted to us.

EVALUATION

Now the Community Services Administration has been criticized for its lack of program monitoring and evaluation. I think you clearly stated that in your early remarks.

Last year your agency requested and received $1 million for evaluation. Can you tell us what you have done with that money, because I might have some better ideas to why OMB cut you back so drastically in your budget request for evaluation?

Ms. OLIVAREZ. When you say last year, you mean this year?

Senator BROOKE. Yes.

Ms. OLIVAREZ. We have already evaluated two of our national centers, groups that were funded by prior administrations.

In fact, one of the reports is being given to us tomorrow. We have begun to do an evaluation on Community Action agencies to find out what is right and what's wrong, what are their weaknesses and their strengths, and how we can strengthen them.

In addition, I should point out that we really didn't get our 1978 money, as you well know, until a couple of months ago.

So we weren't able to make that many commitments. But we have already started with the evaluations.

Senator BROOKE. Have you used up all that money?

Ms. OLIVAREZ. No, sir.

Senator BROOKE. But you really haven't gotten into it, have you?

Ms. OLIVAREZ. Well, we have gotten into it. But because we didn't have the money, we are currently creating an evaluation plan.

I said, we have already done two major evaluations, and we are engaged right now in current evaluations.

Senator BROOKE. Do you have any findings that you can report relative to your evaluations to date?

Ms. OLIVAREZ. No, I don't have the report on the national Community Action agencies.

Mr. ALLISON. We do have reports on some of the projects. The National Center for Community Action report is available to us. We have——

Senator BROOKE. Why aren't your evaluation findings regularly shared with our subcommittee?

Ms. OLIVAREZ. Because few evaluations have been done in the past. I will be very happy to send you a copy of the reports we have right now.

Senator BROOKE. Would you do that? I would like to have those evaluation reports, and as they come in, we would like to have you forward them to our committee.

Now how do you plan to spend the $3 million that you are requesting this year?

Ms. OLIVAREZ. We plan to evaluate State OEO offices.

We don't want to give up on them yet, but we need to find out which are good and which are bad and what works and what doesn't work.

We will also be evaluating our Community Action agencies. A lot of the Community Action agencies, because of the static funding, have run into difficulties and have had a lot of trouble maintaining mobilization of resources, et cetera.

So evaluation will be done on that. We will be evaluating the impact of our community food and nutrition programs, and we will also be evaluating the impact of community development block grants on low-income people.

Senator BROOKE. Do you have the expertise in-house to do a thorough investigation?

Ms. OLIVAREZ. Most of these will be contracted out.

Senator BROOKE. So you don't plan to develop any capability for in-house evaluations?

Ms. OLIVAREZ. We do have that capability right now, but not for everything.

Senator BROOKE. Now that OMB has reduced your request so that the request we received is less than half the amount that you had proposed for this evaluation, what will have to give?

How thorough will this evaluation be? What will you be able to accomplish? What will you have to cut out?

Ms. OLIVAREZ. Well, obviously, we won't be able to do all the evaluations we wanted to do. We will be able to——

Senator BROOKE. Less than 50 percent of the evaluations you had planned.

Is that it?

Ms. OLIVAREZ. That's right.

Mr. ALLISON. Senator, I think what this means for us is that we obviously will have to set some priorities. And against our mandate to provide technical assistance and better monitoring of our principal constituent agencies, Community Action agencies, I think our priorities are going to be pretty much a matter of evaluating the effectiveness of these activities so we can better communicate what they are doing to all of our constituents.

We have a number of national projects which are up for refunding, or continued funding. The Director has already mentioned the State economic opportunity offices.

The CAP agencies and national projects are going to be the priorities, as we see them.

Senator BROOKE. Well, I'm still not clear about the capability in-house for evaluations.

It's still not clear how many are contracted out.

Ms. OLIVAREZ. Perhaps Robert Landmann, Director of the Office of Policy, Planning and Evaluation would clarify that.

Mr. LANDMANN. We have a very small staff in the office. We have a staff complement of four, so that our capabilities qualitatively may be good, but we are limited in the scope of the work we could do potentially in-house.

However, we are taking steps to correct the quantitative deficiency.

INCREASE IN STAFF

Senator BROOKE. Will this budget enable you to increase the number of staff?

Mr. LANDMANN. Not necessarily, because we have a staff ceiling.

Senator BROOKE. Then how are you going to increase quantitatively?

Mr. LANDMANN. There are two ways we can do it. One is through the use of contract evaluation. Then there are evaluations of specific grantees, specifically, Community Action agencies. We are currently developing a plan whereby we will institute a system of self-evaluations. That will relieve a great deal of the burden which we presently carry in evaluation activities.

Senator BROOKE. From your response, it just seems to me you don't intend to increase the four staff members in-house presently assigned to evaluation. You intend to give out more contracts; is that it?

Mr. LANDMANN. We are trying to keep contracts to a limit, restrict them as much as possible. In addition to the four, which I have personally on my staff in Washington, we do have evaluation capacity in the regions. Some of these people have a combination of duties, but the majority can devote their full attention to evaluations, so that they are able to undertake some of the evaluations in the regions, especially what we refer to as the type 3.

TRAINING PROGRAMS

Senator BROOKE. Are you training any of these people in the region for this purpose?

Mr. LANDMANN. Yes; as a matter of fact, we are developing a guidance manual we should have prepared by the end of the fiscal year.

Ms. OLIVAREZ. In addition, because of the 13 years of existence of Community Action agencies, we find more and more that there is a lot more talent in the Community Action agencies than we had realized.

If you notice, we are asking for some training money. It is not what we had anticipated, but, in any event, we know we can utilize the Community Action staff itself and support them in terms of per diem, and then they can go in and train other staff, rather than

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contracting out. Some of the training of the CAA family can be done by CAA's themselves.

Mr. LANDMANN. Again, by receiving funds for administrative activities, other than for salaries, we would be able to use, theoretically, CAA personnel and simply pay per diem and travel for evaluation.

Senator BROOKE. So through the $1 million funding level, you will be able to conduct a substantial evaluation program?

Ms. OLIVAREZ. Yes, and Bob, you can sit down with the staff and share with them the evaluations we are already engaged in and start sharing with them the reports as they come in.

Mr. LANDMANN. Right. There is one other way we can leverage increased evaluation activity. We are currently engaged in sharing evaluations with our sister agencies in Government. The director mentioned community development block grants. In that instance we can go to HUD and request resources from them to collaborate in evaluation activity.

As a matter of fact we are currently working with HUD on the possibility of conducting——

Senator BROOKE. Are there other agencies you are working with on a cooperative basis?

Mr. LANDMANN. HUD is specifically one we are negotiating with at the moment.

Senator BROOKE. Any others?

Mr. LANDMANN. We are also working with the Department of Labor and with the Department of Agriculture.

Ms. OLIVAREZ. And HEW's Assistant Secretary for Human Development.

LOCAL INITIATIVE

Senator BROOKE. This $369-million appropriation for fiscal year 1978 local Community Action agencies, can you break that down?

Ms. OLIVAREZ. I will let the figure man answer that. First of all, we are committed to a cost-of-living increase. Community Action agencies have not been getting raises or cost-of-living increases. Approximately one-third of that increase will go to cost of living for Community Action agency staff. John?

Mr. GABUSI. With the appropriation just becoming available, we are completing our funding guidance on that money to the grantees. They have been operating at the maintenance level of $330 million for the last 3 months.

The funding guidance that is being prepared contemplates decisions by the end of February. The additional amount would be allotted to those grantees beginning at that time.

Senator BROOKE. Specifically, I am interested in the $39-million increase over last year's level. How is it being spent?

Mr. GABUSI. The first priority will be to permit the cost-of-living increases at 5 percent of personnel costs.

Senator BROOKE. Is it true that half of that $39 million may not even go to Community Action agencies?

Mr. GABUSI. No; not to my knowledge.

Senator BROOKE. You are all shaking your heads negatively, in unison, I might add.

Ms. OLIVAREZ. Perhaps Mr. Robert Smith, Director of the Office of Community Action would comment on that.

Mr. SMITH. All the $39 million will be going directly to the Community Action agencies; not one penny of that will be going to any other activity. That additional $39 million will be used to strengthen the existing agencies, to provide them with cost of living increases, as they say, cost-of-operation expenses. Also to those who have somehow been able to implement some sort of cost of living that will allow them to get into some outreach improvements and more innovative-type programs, some demonstration programs.

It can be used constructively to make that program a better program. We want the Community Action agencies to use that money in a constructive way to strengthen that mechanism out there. That is how the money will be used.

It will not be diverted for any other purpose.

Senator BROOKE. That bill was signed into law on December 9, last. It is my understanding that the $39 million has not been used at all.

Ms. OLIVAREZ. Yes, sir.

Senator BROOKE. Is that correct?

Ms. OLIVAREZ. Yes; for this reason, Senator.

We do not want to make decisions in a vacuum. One of the things we have been doing over the last 9 months is to bring in a variety of groups of people to sit with us and help us plan, because we are not going to sit here and make decisions on CAP agencies when we haven't had a chance to really get around to see as much as we want to.

This is one of the reasons we conducted the public policy forums, the hearings: to find out if there were any dimensions in poverty in the late 1970's that we ought to be addressing.

The CAP directors through their regional and national associations are being consulted on the distribution of the $39 million rather than have us make the decision without the benefit of the day-to-day experience the CAP people have.

Regional CAP directors association representatives met with us last week, all day Tuesday, to discuss the formula and how we distribute this $39 million equitably.

So it is taking a little bit longer, but at least we are not imposing our limited views on the local Community Action agencies.

Senator BROOKE. There is no question that all of the $39 million will be used for Community Action agencies?

Ms. OLIVAREZ. It is local initiative money and that is what it means.

AUDIT

Senator BROOKE. What have you done to improve your management systems, including audits?

You will remember the recommendations in the House Committee on Government Operations.

Ms. OLIVAREZ. Perhaps Mr. Frank Jones, Assistant Director for Legal Affairs, can answer your question.

Mr. JONES. We have instituted a system for closing the—some 600 audits that were outstanding. That is a slow process because

the reasons the audits were outstanding—and they go back to 1974—the reasons they weren't closed was because of disallowed costs that Community Action agencies and other grantees have spent that were not consistent with agency regulations.

When these costs are disallowed we do not close the audits. Some of these grantees are no longer in existence, so it is a question of finding the records and closing them.

We are beginning to do so. We are still behind on it.

In-house, we have adopted a system to ensure not only that audits are done, but that there is followup to implement the corrective action that is suggested by the audit results.

As an audit comes in, problems are flagged, and the information is summarized by my office and sent to the program offices that have responsibilities for that particular grantee.

That program office then is required to develop a response that contemplates correction when problems in the audit have turned up.

We also have a training program for the auditors, CPA's who conduct the audits for the grantees. We have instituted a stepped-up program of disallowing the auditors themselves, when their work does not comport with standard auditing procedures.

So that where we have auditors who have not done a good job based upon our spot checks, and we do not have enough auditors really to check every one of the audits that is done with all the grantees, but we do spot check that.

When we find that an audit firm has not complied with the standard or guide, we will inform that audit firm, CPA firm, it can no longer conduct audits for us.

The inspection and the audit activity of the agency has now been coordinated. Oftentimes when an inspector goes out on a complaint to investigate an allegation of abuse or defalcation of some sort, he can only go so far.

One of the difficulties that existed in the past was the problem of coordination between audit and inspection.

Under the reorganization the Inspection Division and the Audit Division are now in the Office of Legal Affairs and General Counsel. The auditors and inspectors are working very closely so when the inspector gets as far as he can, he then calls in an auditor.

That combined report is prepared and sent to the offices that have responsibility. They have 14 days in which to respond to a list of recommendations that I send them with regard to the corrective action. When we get their response, we then sit down and decide whether or not the corrective action they have suggested taking is in compliance with the regulation. The overall program which we have tried to institute is slowly catching up with the past audits and we are trying to keep up with the new audits.

One of the problems in trying to catch up is that you have current audits continuing at the same time with a staff that has not been appreciably increased.

Senator BROOKE. How large is the audit staff?

Mr. JONES. There are 31 people, 4 of which are in headquarters. The others are in the regions.

You have 31 auditors looking at 1,000 programs.

Senator BROOKE. Did the House recommend you increase that staff?

Mr. JONES. The House did recommend we increase the audit staff. The problem is that the request we made for personnel ceilings was cut back. We have increased the inspection staff because that is the area about which the House was most concerned.

We are planning to increase the audit staff under reorganization plans within my office under which we will abolish certain positions in other divisions and put them over into audit. That will be done in the next month or so.

We are also thinking about a plan that will give the Audit Division priority when other positions become available within the agency.

Senator BROOKE. Do you contract any auditing?

Mr. JONES. No; we do not. Grantees themselves contract for the audit.

What we are planning, though, is a small experiment with the agency contracting directly for grantee audits. There are a number of issues to be resolved, chief among which are the costs involved before we initiate such a program. But we are developing a plan to try it.

Senator BROOKE. In your budget request did you provide for additional auditors?

Mr. GABUSI. We did request additional personnel slots.

One of the priorities, as Frank indicated, was in the entire area of audit and inspection.

Senator BROOKE. Can you break it down, the number of auditors?

Mr. GABUSI. No; we did not to the Office of Management and Budget.

Senator BROOKE. How many did you have in mind increasing the audit staff by?

Mr. GABUSI. I think one recommendation was an additional dozen?

Mr. JONES. Yes; we presently have 31 and we felt we could do the job with 44. So we would have added 12 additional auditors and one typist.

COMMITTEE REPORTS

Senator BROOKE. CSA has a history of late responses to requests from this Committee for information.

Your report on the food program was requested by this Committee in June, 1976, for submission last April. It was finally received 3 weeks ago. That is over 9 months late.

When it arrived it consisted of only a two-page letter and a couple of tables. Why did this report require such an inordinately long time?

Ms. OLIVAREZ. I don't know, sir. I was not here in 1976.

Senator BROOKE. Is there anyone here who can give me such information?

You have been here how many months now?

Ms. OLIVAREZ. Nine.

Senator BROOKE. Nine months.

Ms. OLIVAREZ. I wasn't even aware that you had a request in.

Senator BROOKE. I think you all ought to start talking to each other. They certainly ought to be talking to you.

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Agency shall submit the following to the Senate Appropriations Committee. A complete plan for implementation of community food and nutrition program to include specific objectives, performance standards, program priorities, including monitoring and evaluation of activities; submit a report to the Senate Appropriations Committee by August 1, 1976. A major portion of this report is to specify compliance or noncompliance with this and previous congressional instructions. Submit a report by April 1, 1977 on the accomplishments, achievements, and compliance with Congressional instructions.

That is important. I'm sure you have copies of it. This came in, as I said, 3 weeks ago, which is 9 months late and it was just a two-page report, with some tables.

Certainly, by no means adequate, and did not in any way really give us the information that we sought.

Mr. ROLLIS. This is no excuse, of course, for not having a report or the information we had on April 1, concerning 1977 appropriations.

However, the food program is typically funded late in the year. In fact, the 1977 appropriation was obligated principally in the month of September, 1977.

We should have had that type of report on April 1. But the program itself in which you were interested did not go on the street until September and, in fact, is currently now only in its third or fourth month of operation.

The same thing is going to be true to some degree of our 1978 nutrition program. We will have no report now on 1978 because it would be intended to be obligated much later in the 1978 fiscal year.

In fact, we are still collecting data on the 1977 nutrition program in the type of format that you are more interested in; that is, the functional breakdown.

Senator BROOKE. We asked for the report a year earlier and never got that either.

I just want to know when you will be able to respond fully to the committee's original request for a report on the achievements of the food and nutrition program.

Mr. ROLLIS. I think in the interim, the congressional justification, which you have there, contains a more detailed report on the 1977 program and breakdown by functional subcategory.

Senator BROOKE. Doctor, I hope you can improve your agency's record of response on a timely basis to the committee's request for information.

Ms. OLIVAREZ. We are trying to improve the record on a variety of levels and issues.

I think we have made some headway on a number of them. Diane Elliot will be sure to see to it that you do get timely responses to your requests.

I apologize for the delay.

Senator BROOKE. Well, we provided the money, but we didn't get the report.

All right, then. I just hope that in the future you will improve your track record, your track record on submitting timely reports.

EMERGENCY ASSISTANCE

Well, as I understand it, the administration proposes to move emergency fuel assistance to HEW.

How would the HEW program differ from your field assistance program?

Ms. OLIVAREZ. I'm not privy to their plans to move it.

Senator BROOKE. It's in the budget.

Ms. OLIVAREZ. Oh, I thought you were talking about the whole local initiative field assistance program.

Mr. SMITH. I have not been part of any discussions regarding how that program would be implemented at HEW or the impact of a possible program with HEW.

We have been informed that this would be the last request granted to the agency, the $200-million request, which is now in the committee, that further requests would not come through CSA, but a system would be set up with HEW to handle that type of program.

That is all my office, which is running the program, has been informed about it.

Senator BROOKE. Do you know whether or not local Community Action agencies will be involved in this program?

Mr. SMITH. We have heard nothing about how that program would be implemented. But I think it would probably go through the social security system.

I have heard that from other people about payment. I have no information as to what their plans are.

Senator BROOKE. I don't know what you are doing with that. I am disturbed. I fought for that $200 million for CSA as you will remember.

Again, HEW had absolutely no experience in this field. I can't understand why you would transfer it to HEW.

Now, you tell me that HEW has not even talked with you about the program itself, where you have had the experience you don't know what they intend to do. You don't even know whether Community Action agencies are going to be involved in the program when HEW, or if HEW should take it over; is that correct?

Mr. SMITH. We believe the agency played a very valuable role in the last program and some of the results will soon be coming in through a survey that the Office of Policy, Planning and Evaluation has done. If we are given an opportunity to do this program, we think that our Community Action agencies can play a valuable role in the distribution of emergency funds.

But in terms of future programs, we have not been in discussions as to the roles CAA's or the agency would play at all.

ENERGY CONSERVATION

Senator BROOKE. What is the purpose of the $10 million for energy conservation services which you are requesting?

Mr. SMITH. It would be in the form of two categories. No. 1, continuation of the very valuable demonstration component within our energy section. We believe that we have the expertise and can to play a very vital role in developing experimental programs which would impact on the poor.

The other area is our traditional crisis relief program in which we are able to provide on an immediate basis blankets, food, transportation, other types of needed aid to those families or those individuals who need immediate help because of an energy crisis.

Senator BROOKE. Did you recommend transfer of the program in your budget request to OMB?

Ms. OLIVAREZ. Did I recommend it? No, sir.

Senator BROOKE. That transfer will result in a reduction in the number of staff needed both in the national CSA office or regional offices; will it?

Ms. OLIVAREZ. No; our weatherization program in CSA was being handled by a total of two people, I believe.

Mr. SMITH. There are approximately two to three staff people with about two to three temporary people. A lot of work is handled in the regions——

Senator BROOKE. Mostly in the region?

Mr. SMITH. Yes, a lot of the work is handled in the region.

Senator BROOKE. That is what I asked in addition to CSA. What about in the regions?

Mr. SMITH. There would be no net loss.

Senator BROOKE. No net loss? Why?

Mr. ROLLIS. That is because the energy program is run through a CAP. Our regional personnel monitor the Community Action agency as a whole, not by specific program amount. Consequently, the deletion of a particular program doesn't necessarily mean a deletion of the number of monitoring people necessary.

Mr. ALLISON. Regional offices haven't been able to specialize in terms of these programs. They do specialize but they wear many hats so that individuals would continue to have responsibility for other programs.

Senator BROOKE. So there won't be any cutback at all.

Ms. OLIVAREZ. No.

Mr. ROLLIS. The Department of Energy has requested $200 million to go through the CAA's as prime sponsors, which means we would still be responsible——

Senator BROOKE. That is interesting because I am sure the Department of Energy will add personnel to their forces. The Government never cuts back does it? You don't get any reduction in personnel; when you take a program of that magnitude, transfer it to another department, you don't lose personnel, but they gain personnel.

Ms. OLIVAREZ. Well, we double up in so many areas——

Senator BROOKE. Why can't they double up?

Mr. ALLISON. It is a tradition in our agency that we haven't been successful in transferring our double-up personnel.

Senator BROOKE. It is not a tradition in any other agency?

Mr. ALLISON. I don't know whether I should comment on that, Senator.

Ms. OLIVAREZ. Senator, for some reason or another, because we are able to do good things with a little bit of money——

Senator BROOKE. That is what all of them are supposed to be doing.

Ms. OLIVAREZ. But we are doing it and somehow or another it gets lost in the transfer.

Senator BROOKE. There are some other agencies, so let me just ask you a few more questions. I have many, many questions I would like to have you respond to for the record.

RURAL EMPHASIS

Do you plan to establish a housing development corporation program?

Ms. OLIVAREZ. To establish one?

Senator BROOKE. Yes.

Ms. OLIVAREZ. We are already involved in the establishment of housing development corporations. We don't have a unit within the agency itself known as a housing—again we have two or three people handling housing in the agencies.

Mr. ALLISON. We are funding some housing development corporations throughout the country already in our rural housing program.

Senator BROOKE. You only have two people working on that?

Mr. ALLISON. Very limited staff capabilities.

Mr. SMITH. We have four people in the Rural Housing section.

Senator BROOKE. How much money is set aside for that?

Mr. SMITH. $6 million.

Ms. OLIVAREZ. That $6 million, Senator, is leveraged into a lot more money because of some innovative programs. For example, our project in Kentucky not only provides housing rehabilitation but they also have their own housing factory. They also have employment as a result of the housing factory.

So the $6 million is just seed money that they then leverage into——

Mr. GABUSI. About $47 million is the estimate.

Senator BROOKE. Is there any plan to establish a desk of rural concerns within the Community Services Administration?

Ms. OLIVAREZ. Well, we have such a group of people.

Bob—in fact we just got through—are you talking about migrants or rural?

Senator BROOKE. Rural.

Ms. OLIVAREZ. No, not a desk, per se, to handle rural problems. We expect every division to be concerned about rural problems in the agency. We will share with you a report that will be coming out of our Kansas City meeting. We feel very strongly that this Nation needs a rural policy.

And we have taken the lead in bringing groups of people together, primarily people with interests and experience in rural areas.

Mr. ALLISON. We have had a good deal of discussion on this because of the interest of many of our constituent groups to get CSA more actively involved. We held a number of meetings. The Policy Office has held meetings on this. There is no plan, per se, to create a desk. But I think the agency of necessity will continue to have a very real interest in the problems of rural America.

Half of our Community Action agencies are in fact rural agencies, often the only social service delivery mechanisms in the rural communities.

ENERGY CRISIS INTERVENTION

Senator BROOKE. Do you have up-to-date statistics on the number of low-income households that face shutoffs of fuel for heating purposes?

Ms. OLIVAREZ. It is very dynamic. I asked for a report in September from the regional offices. At that time we estimated that there would be a little over 2 million households going into winter without adequate heat. As a result of some of the money that Congress appropriated, that figure changed. But by the same token, as we help some, others slip back down. But our rough estimate, and it is not a scientific sample, is that close to 4 million persons went into this winter without adequate heat in their homes

Senator BROOKE. You have estimated that as much as $545 million may be needed for crises intervention this winter. Have you revised your earlier estimates?

Ms. OLIVAREZ. As I said, it keeps changing, depending on who gets further behind. I haven't revised the estimate at all, because it is so difficult to get a handle on.

Senator BROOKE. How do you arrive at the estimate of 4 million without adequate heat? You said it was not a scientific sample, but how did you arrive at it?

Ms. OLIVAREZ. We asked each of our regional offices to work with the State economic opportunity offices and with the local CAP agencies, and give us an estimate of how many people were coming into the CAP agencies or the State offices to request assistance on utility bills. It was that kind of figure given to us. Obviously, the worst problems were coming out of the Northeast Corridor, the Midwest. A smaller number of people were in the warmer areas. But the problems in the Northeast and Midwest were very severe. Four million corresponds very well with the 3.7 million actually assisted through the 1977 program.

The figures we got from those regional offices were very depressing.

Senator BROOKE. Senator Chiles, I have concluded my questions to the CSA Administrator, and I will submit additional questions to her and her staff for response for the record. Do you have any questions of her at this time?

MIGRANT PROGRAM

Senator CHILES. I would like to ask briefly, if I could, Mr. Chairman. On our migrant program, in your rural housing development, that is not part of the migrant program?

Ms. OLIVAREZ. No.

Senator CHILES. Tell me what you are doing in the migrant program.

Ms. OLIVAREZ. In relation to housing, we do have some housing programs for migrants in Arizona, in southern California, and in Florida.

Mr. SMITH. In Florida, we spent $300,000 to help migrants who were severely hurt by last winter's natural disaster. That was part of the migrant program. We have also funded some other programs, such as a migrant hot line which will help migrants trying to obtain services from various organizations.

In addition, we have funded a study which might be the basis of a national farm worker health insurance program. Those are the types of programs we funded with the migrant money.

Ms. OLIVAREZ. We plan to establish a migrant desk at the agency, because the problems of the migrants are requiring a special kind of attention, and the differences between migrants on the east coast, migrants in the Southwest, and migrants in the Midwest, require that we be sensitive to the unique problems of some of the migrant workers.

We are also looking at the possibility of working again with labor on relocation of migrant workers.

Senator CHILES. What was your request as it went up to OMB for the migrant program?

Ms. OLIVAREZ. $10 million.

Senator CHILES. You are now proposing $1 million?

Ms. OLIVAREZ. Yes.

Senator CHILES. That is all the questions I have.

Senator BROOKE. What would you be able to do with $1 million? After you made your request for $10 million. That would be drastically cutting back the program; would it not?

Ms. OLIVAREZ. Yes, it would reduce our plans, but is a continuation of the same amount appropriated this year. HEW has migrant money. Theirs is primarily program money. Labor has migrant money, and we have not finished checking just how much the Department of Agriculture has in migrant money.

We propose to use our $1 million and offer it as seed money, in order to attract programmatic money from the other agencies and leverage it to the best of our ability.

Senator BROOKE. So this $1 million would be purely administrative?

Ms. OLIVAREZ. We can use it to attract program money from the other agencies.

Senator BROOKE. You would not be providing any direct services for migrants at all?

Ms. OLIVAREZ. Well, we do provide direct services.

Mr. GABUSI. We provide services primarily through Nutrition and energy set-asides for migrants.

Senator BROOKE. Well, under this budget?

Mr. GABUSI. In addition to the $1 million under title III we do provide direct services through nutrition and energy programs, which is fed directly through the conduits into the migrant stream, for emergency crisis purposes, gasoline vouchers, food and that sort of thing.

Senator BROOKE. How much of that do you anticipate for migrants?

Mr. GABUSI. In fiscal year 1977, about 5.2 million of energy and nutrition money was obligated to migrant organizations. Approximately the same level is anticipated, about $5 million, in 1978. In 1979, depending on the disposition of our requests, $2.2 million is anticipated.

Senator BROOKE. Further questions?

Senator CHILES. No.

Senator BROOKE. Thank you very much, Doctor.

[CLERK'S NOTE.—The justification material for this account appears in the House fiscal year 1979 Labor-HEW Appropriations Subcommittee hearing record.]

SUBMITTED QUESTIONS AND CORRESPONDENCE

Senator BROOKE. We will give you additional questions to be answered for the record, and insert correspondence related to Community Services Administration appropriations in the record at this point.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

Questions Submitted by Subcommittee

Question: What are you doing to monitor the effectiveness of various Community Action Agency programs?

Answer: CSA has established standards of effectiveness for CAAs (CSA Instruction 7850-1a). As part of the Grant Application Process CAAs are required to relate their proposed work programs to these standards and to provide measurable goals and objective for such programs.

Question: Do you have, in place, a monitoring program which can gauge how a community action agency's operations are working?

Answer: Approximately 180 days prior to refunding a team of three to five persons conducts an on-site pre-funding review during which the team checks records relating to the achievement of the goals and objectives of the work program. In addition, CSA requires twice a year submission of progress reports based on the grantee's work program.

Under its agency-wide reorganization plan, CSA will increase the number of field personnel by 20%. The increase is necessary to implement field requirement for monitoring the quality of programs services and the adequacy of field record-keeping systems.

Question: Does this allow you to tell if some or all of the local operations are either working or not working and explain why?

Answer: We believe that the system is adequate to accomplish this, but individual exceptions do arise.

Question: A report assessing the migrant and seasonal farmworker situation in the U. S., prepared for the Community Services Administration in 1976 by Inter-America Research Associates, indicated that although local community action agencies provide services to the rural poor, they are largely unsupportive and unsympathetic toward migrant and seasonal farmworkers.

What steps are being taken to improve this situation by insuring that local community action agencies are adequately meeting the needs of farmworkers?

Answer: Community Action Agencies, like most social service delivery systems, have a territorial base, their target geographical area. Inevitably, they respond best to a permanent population. However, we do not find evidence that CAA's are discriminatory against migrants, and in fact, a number of CAA's administer nutrition programs specifically targeted to the migrant problem.

Question: What efforts are being made by the Community Services Administration to function as an advocate or spokesman for migrant and seasonal farmworkers -- a role effectively taken by the Office of Economic Opportunity, your Agency's predecessor?

Answer: CSA is establishing a migrant and seasonal farmworker desk within the Office of Community Action. This desk will have agency wide responsibility for policy and program development functions for farmworkers as well as advocacy with other Federal agencies regarding their regulations, legislation programs and policy affecting farmworkers. This desk will also provide information and technical assistance to the ten Regional Offices (primary offices for funding and monitoring local Community Action Agencies) thru the Regional Coordination Division of the Regional Operations Office.

Once this organizational element is established both national and subnational demonstration efforts will be coordinated with the ten Regional Offices and the network of Community Action Agencies serving areas where Migrants and Seasonal Farmworkers live and work.

Question: Are you effectively cooperating with national and regional farmworker organizations to provide migrant and seasonal farmworkers with needed services?

Answer: The CSA farmworker conduit system which provides CFNP and Emergency Energy Conservation funds to local farmworker organizations delivers services to farmworkers which CAAs cannot provide, both at home base and on stream. In some instances a CAA is also part of the conduit system. This mechanism plus selected farmworker administered organizations with service-delivery capabilities both within the conduit system and in selected areas provides needed service and information to farmworkers. For example, CSA provided funds to develop an information data system by the Colorado Migrant Council, and the development of a toll-free migrant information communication network designed

to assist farmworkers in obtaining needed service. The agency also funded a feasibility project designed to establish a migrant health insurance program.

These projects were developed after consultation with National and Regional Farmworkers Organization and these groups also provide CSA with needed information and advice on a continuing basis throughout the year.

Question: The Community Services Administration recently announced a $7.8 million job training program for 900 inner-city youth.

Once the training is completed, who will provide the jobs?

Answer: The community action program concentrates on energy conservation and it is expected that the youth will be absorbed through the $200 million Department of Energy weatherization program or by private insulation installers. The economic development program is expected to absorb those youths in Community Development Corporation ventures.

Question: How long are the jobs intended to last?

Answer: In both cases the jobs are expected to exist until the individuals can be absorbed in the private work force.

Question: How much was taken from which budget activities to finance this program?

Answer: Nothing was taken from appropriated activities. $5.0 million in energy conservation funds will be used for energy conservation which in its operation employs youth. Similarly the $2.8 million in economic development is targeted for ventures employing youth.

Question: How much is in your fiscal year 1979 budget request to continue this program?

Answer: No funds are specifically requested, but we expect our on-going programs to address the problem.

Question: How much is being spent by the Labor Department for similar youth projects?

Answer: President Carter is proposing funding increases in various youth employment and training programs, requesting spending $2.3 billion on three Labor

Department programs aimed exclusively at youths -- the Youth Employment and Demonstration Projects Act, Job Corps and summer youth employment program. This is an increase of $700 million, or 47 percent over fiscal 1978, which ends September 30.

Broken down by program, the budget asks for $1.2 billion for YEDPA, up $600 million; $376 million for the Job Corps, an increase of $102 million; and $740 million for the Comprehensive Employment and Training Act's summer youth jobs program, which got $672 million in 1978. These three programs are expected to provide more than 1.2 million jobs for young people during fiscal 1979, while another 300,000 jobs and training positions will be funded under other DOL programs.

In addition,a proposed $400 million program to subsidize the additional training costs of employers who hire disadvantaged youths is to be operated through CETA program sponsors.

Question: A recent General Accounting Office report on the Adult Education Program recommended better planning of cooperative arrangements between program sponsored under the Adult Education Act and related anti-poverty programs.

Do you think further action is necessary by your Agency in this regard, and if so what?

Answer: During the past year, a new Office of Interagency and External Affairs was established within CSA to better coordinate or influence the activities and resources of Federal, State, local governments, and the private sector concerning anti-poverty programs. Not only will staff of this Office follow-up on enacted legislation requiring cooperation with Community Action -- as in the case of the Adult Education Act -- but will initiate cooperative anti-poverty efforts between government and the private sector.

Question: A number of local community action agencies have been closed recently due to poor management and lack of fiscal responsibility.

What is the Community Services Administration doing to insure that these communities will continue to receive necessary assistance? Is the Agency working with the affected communities to try and find a replacement, another Community Action Agency which serves a nearby community?

Answer: In all cases of closure, CSA attempts to continue the service level of the terminated CAP. A recent example has occurred in New Haven, Connecticut. When the organization was terminated, the service arms were maintained under the supervision of the State Economic Opportunity Office, which acted also as the recipient of our funds.

Question: Of the $200 million we provided for the Crisis Intervention Program last spring, how much was obligated by the States, and how much was programmed into weatherization?

Answer: Of the $200 million provided to CSA for the Special Crisis Intervention Program (SCIP), $163 million or 81.7% of the total appropriation was obligated by the states for emergency fuel payments.

Question: About how many eligible persons applied for Crisis Intervention assistance?

Answer: 1.6 million households applied for assistance under the Special Crisis Intervention Program (SCIP). We do not at present know how many individuals made up these households except that for the 1,060,718 who actually received assistance there were 3,720,822 individuals in those households. A projection of the same ratio to total applications suggests that some 5.7 million persons applied.

Question: Can you estimate the number in each state who needed such assistance but could not be reached?

Answer: There were 584,823 applicant households who were unable to be served by the SCIP due to shortage of funds in their state. At this time it would be extremely difficult for us to estimate the total number of households in addition to the 584,823 who needed assistance, and were eligible for assistance but did not apply.

Question: How many families had their utilities reconnected as a result of Crisis Intervention Assistance?

Answer: We are not able to identify how many households had their utilities reconnected as a result of the SCIP. The Special Conditions for the program, however, clearly indicated that the reconnection of service was to be made upon certification for payment by the delegated state agency for the eligible households, served, who had been disconnected.

22-712 O - 78 - 3

Preliminary investigations estimate that this activity occurred in approximately 40% of the total number of households served, about 400,000 homes.

Question: Do you have up-to-date statistics on the number of low-income households that face shut-offs this winter, or are unable to purchase fuel for heating purposes?

Answer: Several months ago we gathered information relative to energy shut-offs for this winter and estimated that in excess of 3,200,000 poor and near poor households might be affected. This figure has not been up-dated but appears to be a fairly accurate indicator of the severity of the problem this winter.

Question: Have you revised your earlier estimate that as much as $545 million may be needed for Crisis Intervention this winter?

Answer: When we estimated that as much as $545 million would be needed for crisis intervention this winter, we were assuming that assistance would be provided to the estimated 3,200,000 low income households that faced possible shut-off during the winter. It reflected an average payment of $170 to each eligible household. We have not revised the estimate.

Question: How much of the $65 million we provided for weatherization in the fiscal '78 bill has had to be used so far this winter for Crisis Intervention?

Answer: On January 20, 1978, we notified all energy grantees that they were being given the flexibility to transfer without CSA approval up to 40% of all funds in 1977 weatherization and up to 20% of other programs into crisis intervention activities. We have already been informed that some grantees in both Ohio and Kentucky plan to request approval of transfers, going beyond 40% to deal with their extreme weather emergencies. However, the 1978 appropriation is expected to be obligated shortly as the 1977 grants expire.

Question: Please summarize the accomplishments of your weatherization program: How much money spent, how many homes weatherized, how much fuel costs, and so forth.

Answer: Over $111 million has been obligated for weatherization activities since the program started. Approximately 10% of these funds are spent on administration.

and the remainder on direct weatherization costs. The funds obligated will weatherize over 422,000 houses, almost half of which were worked on prior to FY 1977. The amount spent per house is increasing each year as CSA encourages grantees to bring treated houses closer to optimal weatherization, i.e. the point at which the total savings achieved exceeds the total cost of improvements by the greatest amount. Costs per unit of housing weatherized averaged about $165 prior to FY 1977 and will reach an estimated average of $300 per unit in FY 1977 funded projects. The cumulative average cost per unit for the $111 million program is approximately $238.

The National Bureau of Standards estimates the following savings in dollars and gallons of fuel oil for a 1,000 square foot, two story house, at an assumed fuel oil cost of .40¢ per gallon, where weatherization is carried out in accordance with CSA guidelines; and the dwelling has no insulation, storm windows or storm doors prior to the weatherization work being undertaken:

For a $300 materials expenditure in a 7,000 Heating Degree Day area the first year savings would be $283 or 700 gallons of fuel oil. The heating fuel consumption of the dwelling would be more than cut in half.

Question: How many more homes do you expect to weatherize this year with funds still to be spent?

Answer: The 1978 appropriation is expected to weatherize 250,000 units.

Question: How can the tenant poor be helped by the weatherization program?

Answer: In addition to the legal and policy considerations involved in the weatherization of tenant occupied dwellings, such as liability questions, landlord enrichment, increase in property values as a basis for increase in rent, and the legality of using CETA labor on property owned by persons not meeting income guidelines; there are also, in a substantial number of rental units, technical problems dealing with weatherization of large tenement and apartment buildings.

With regard to the legal and policy questions, CSA has made a grant to the National Consumer Law Center to provide model agreements for use with landlords to avoid these problems. These agreements provide that the landlord agree not

to evict tenants after weatherization except for cause for a period of at least one year. They also provide that where the landlord pays for heat, he must reimburse the cost of weatherization materials to the project. CSA is now compiling data which will tell us what percentage of the dwellings weatherized are tenant occupied.

With regard to the technical problems involved in weatherization of large multi-family buildings, the National Bureau of Standards, under a contract from CSA, has been working with the University of Illinois on a program to develop a computer model for this work. In addition to the model, several of our weatherization grantees, particularly Operation Open City in New York City and the St. Louis Human Development Commission, are doing a substantial amount of large building weatherization.

Question: How are the Department of Energy and the Community Services Administration coordinating their weatherization programs?

Answer: In the summer of 1977 CSA initiated a joint planning process among its Regional Offices, State Economic Opportunity Offices, and local CAAs/energy projects which specifically included as a factor to be considered in the development of a comprehensive energy conservation program, anticipated DOE weatherization funding to the states. Because the DOE conservation program is basically insulation, CSA, beginning with the 1977 planning process described above, has urged its grantees to use CSA funds to carry out comprehensive residential convervation programs which include activities such as conservation education and the appropriate use of alternative heating sources. At the same time, CSA has tried to assure sufficient flexibility in the use of its funds so that the DOE funds for weatherization materials will be adequately supported with essential tools, equipment, manpower, supervision, transportation, and other administrative costs. Finally, CSA has reached basic agreement with OMB and DOE on the use of common reporting forms for the weatherization activities regardless of the source of funding.

Question: What is the possibility that a special migrant division will be created within the Community Services Administration to function as a central coordinating agency to: Disseminate information

to national, regional and local government agencies providing services to migrant and seasonal farmworkers; and act as a liaison between government agencies serving migrant farmworkers?

Answer: CSA is establishing a Migrant and Seasonal Farmworker Desk within the Office of Community Action. This desk will have agency wide responsibility for policy and program development functions for farmworkers as well as advocacy with other Federal agencies regarding their regulations, legislation programs and policy affecting farmworkers. This desk will also provide information and technical assistance to the ten Regional Offices (primary offices for funding and monitoring local Community Action Agencies) thru the Regional Coordination Division of the Regional Operations Office.

Once this organizational element is established both national and subnational demonstration efforts will be coordinated with the ten Regional Offices and the network of Community Action Agencies serving areas where Migrants and Seasonal Farmworkers live and work.

Question: Do you feel that the needs of migrants would be better served if your agency administered such existing farmworker programs as employment and manpower training and social services, including daycare, now administered by the Labor Department?

Answer: The President's 1979 budget contemplates the continuation of migrant service activities in other agencies, as well as in CSA. While centralization of related activities could be expected to provide better coordination of migrant services, such a proposal would need further study in conjunction with the President's overall reorganization effort.

Question: How much is being spent by local Community Action Agencies to develop Community Development Corporations?

Answer: The 1975 Mariscal study estimated Community Action Agency expenditures in economic development activities at over $17 million.

Question: Are local Community Action Agencies permitted to spend more for Community Development Corporations to offset your proposed budget cut for these Corporations?

Answer: They are technically permitted to do so, but the normal CDC has a direct funding relationship with CSA and does not receive funding from CAA's.

Question: What amount of money is being transferred from other agencies, such as the Labor Department, to support Community Development Corporation activities?

Answer: No inter-agency transfers to CSA are anticipated from other Federal agencies for subsequent use by Community Development Corporations. A total of $96 million has been obligated by other Federal agencies to CDC's as a part of their various programs.

Question: Has the lack of public service jobs enrollees to install weatherization materials adversely impacted program progress?

Answer: Yes, this has been a problem in some rural areas, particularly. The general opinion of grantees is that the earmarking of public service job slots directly to weatherization project operators would be a far more satisfactory solution to the manpower problem. It should also be pointed out that although the manpower problem is serious in some areas like North Dakota where the rate of unemployment is relatively low so that the number of available CETA positions is reduced, insulation shortage is the limiting factor in other areas.

Question: I understand there is a proposal to use action volunteers to install the materials. How would this be coordinated? What is the status of the proposal?

Answer: ACTION is preparing a proposal for some 1,000 Summer Volunteers, 350 of whom would be assigned to work in the energy field, mostly with on-going CSA-funded weatherization projects. This would be a two-month project in which the volunteers would undertake a variety of activities consistent with the role of VISTA volunteers, that is, working with people in areas such as conservation education. In some of our Regions, notably the Kansas City Region, a limited number of highly skilled VISTA Volunteers have been outstandingly successful as Energy Project Coordinators in local CAAs.

Question: How have the community economic development corporations been faring in the past two years?

Answer: OED's current data base is inadequate to permit a comparison of current CDC performance with base line data two years before. The management

information system now being developed will eventually permit such analysis. In the meantime however, a special data gathering and analysis effort now under way has indicated that there is marked disparity among CDCs in performance to date.

Broad generalizations cannot be made about CDCs as a group. Unfortunately, CDCs in the past were funded and managed fairly uniformly, without tying funding decisions to performance measures. This has completely changed recently, by the classification of CDCs into three groups, based on institutional and venture performance. Our CDCs have been classified as operational, transsitional and probationary based on objective standards.

Individual successes over the last two years include the Harlem Commonwealth Council in New York City, which purchased a company in 1972 that manufactures fixtures and display cases for supermarkets. In 1975, its third year of operations, it was producing sales of $2.5 million, though still running a loss of $21,000. By 1977, sales had increased to $3.7 million annually, and a profit of $153,000 was cleared. The company employs 115 local target area residents. In 1977, HCC also put together a $4 million deal to acquire a steel wire company that was closing down. Employing 165 local residents, the company produced nearly $1 million in sales and a small $3,200 profit in its first quarter of operations under HCC. Sales and profits for its second quarter were $1.3 million and $25,000 respectively.

Another CDC in New York City, the Hunt's Point Local Community Development Corporation, acquired a spray painting firm in December 1974. A profitable enterprise when acquired, it required expansion if its financial position were to be maintained. It doubled sales to $734,000 in 1976, showing a profit of $102,000. Sales and profits in 1977 through three quarters were $676,000 and $83,000, respectively. Projecting to a full year, sales will reach $900,000,and profits $110,000, increases of 23% and 33%, respectively.

Question: Which development corporations have lost money and which have shown a profit?

Answer: Administrative costs for CDC's average one-third of the grant funds provided. Consequently, no

CDC is profitable as a Corporation. Individual ventures show profit, but not enough to offset other venture losses and CDC administrative costs within an individual CDC.

Question: Of those corporations that have shown losses over the past two years, has it been due entirely to economic conditions, or has it been due to poor management, or a combination of both?

Answer: Those CDC's that have shown losses, through their business ventures, over the past two years, can attribute the losses to a variety of reasons. Without a doubt some of those losses can be attributed to economic conditions and poor management. However some of those losses were expected as the norm of doing business. A start-up business is expected to generate losses during the incubation period until break-even occurs. It must be clearly understood that new businesses must, and will suffer losses, during its first several years of existence. It should also be clearly understood that some new businesses will fail before break-even ever occurs. Failure will occur because business means risk taking. This is true not only for businesses owned and operated by CDC's but also for those undertaken by private enterprise.

The OED has begun, and will continue, to measure CDCs movement toward venture development and profitability through the use of trend line analysis on a quarterly basis. The CDCs will be closely monitored to ensure that venture performance attain agreed upon objectives.

Question: Are Community Economic Development Corporations really a viable way to help pick up a community's economic situation?

Answer: Each of the areas in which CDCs operate are characterized by high levels of unemployment, low per capita income levels, high absentee ownership of assets, and poor public and commercial services, a deteriorated physical infrastructure, a lack of a human capital base of technical and management skills, and a history of discriminatory disinvestment treatment by public and private institutions.

The CDC as an organization that is created and controlled by residents of such economically depressed areas, with a multiple set of objectives aimed at developing a community is a necessary component of any developmental strategy.

Experience of previous efforts has shown that with the absence of a community based mechanism development efforts have not taken hold or too often fragmented into discrete projects that have little impact on the conditions of these communities.

Question: The House Committee on Government Operations reported last August that your Agency has more than $29 million in unresolved questioned costs from audits, some going back to 1970.

What are you doing to improve financial management of your Agency, and resolve existing audit questions?

Answer: We have instituted a systematic review of the quality of grantee audits performed by CPAs. We have expanded our earlier attempts to provide orientation seminars for grantee financial personnel and their CPA firms. We are presently emphasizing complete implementation of Federal Management Circular (FMC 73-2). This Circular requires that efforts be made by Federal executive departments to enter into cross-service audit agreements and to generally increase the incidence of single audits of multi-funded grantees. We have placed greater emphasis on close coordination between the External Audit and Inspection Divisions. We are planning an experiment in contracting directly with CPA firms rather than allowing the grantees to engage their own CPA firm.

Question: How many auditors are you requesting for Fiscal Year 1979, compared with 1978, and is this adequate to do an effective job?

Answer: We are anticipating an increase in the External Audit Staff of approximately 13 positions. Current strength at this time is 21 auditor and 10 clerical positions. We expect to begin recruiting to fill these positions in FY 1978, but the increase to that level will occur over time. The objective of 44 positions will be 33 auditor and 11 clerical positions. We believe that this increase is sufficient to do an effective job.

Question: Has the Community Services Administration completed the reorganization set out by you in your confirmation hearings?

Answer: The structural reorganization of the Agency is complete and all offices shown are functioning under the mission statements for those offices.

Additionally, due to major Civil Service Commission evaluations of many of our regional offices, we have reorganized the functions in those offices to enhance their monitoring and evaluation procedures.

Because this reorganization required many position changes such as changes in grade level and duties, we are in the midst of this process. Due to its complexity, it required extensive negotiations with our National Union and a tentative agreement was reached in the latter part of 1977. The procedures of that agreement are the basis of our continuing activities.

We anticipate that the bulk of our personnel changes will be completed by the end of March but that this will be a continuing process since our manpower ceiling is scheduled to be reduced from the current authorized ceiling of 1,042 to 1,015 by Fiscal Year 1979.

Question: Has the reorganization required the hiring of additional personnel and consultants?

Answer: None of the consultants employed have duties related to the reorganization.

Question: Provide the Committee with a breakdown of personnel, by grade, for before and after the reorganization, as well as the number of consultants and consultant hours before and after the reorganization.

Answer: Following is a listing of permanent positions in our manning structure September 30, 1977, and the manning structure under the reorganization:

	9-30-77	Reorganization
Executive Level II	1	1
Executive Level III	1	1
Executive Level IV	4	4
GS-18	1	1
GS-17	2	1
GS-16	10	9
GS-15	76	43
GS-14	140	121
GS-13	160	225
GS-12	169	223
GS-11	76	89
GS-9	84	20
GS-8	15	8
GS-7	54	69
GS-6	65	68
GS-5	109	98
GS-4	43	37
GS-3	27	21
GS-2	2	0
Ungraded	3	3
Total	1,042	1,042

There were two consultants employed by the Agency prior to the reorganization and there are three consultants currently on board. None of their duties are related to the reorganization but rather are involved with the on-going mission of the Agency. All of them are hired for a period not to exceed 100 days per fiscal year. We are restricted by statute from employing any consultant for a longer period. In the pre-reorganization period the two consultants worked a total of 800 hours (100 days x 8 hours) and it is anticipated that the three consultants currently on board will also work a total of 800 hours per consultant.

LETTER FROM SENATOR DALE BUMPERS

January 25, 1978

The Honorable Warren G. Magnuson
Chairman, Senate Appropriations Committee
127 Russell Senate Office Building
Washington, D. C. 20510

Dear Maggie:

The purpose of this letter is to inform you of my strong support for the National Demonstration Water Project (NDWP), which is funded by the Community Services Administration (CSA).

In its short history, the NDWP has developed a unique and valuable approach to meeting rural economic and social development needs. While recognizing the benefits of being nationally organized, the NDWP has maintained its original structure as a coalition of local water development organizations. By so doing, the NDWP has been able to respond to local problems with a maximum of invaluable assistance and a minimum of control. In the opinion of the participating local organizations, this has been the hallmark and success of the program.

I have been very much impressed with the accomplishments of the NDWP. In my home state of Arkansas, the NDWP has poured $358,000 into local water service development projects. Taken by itself, this figure is not overwhelming. It is important to note, however, that the $358,000 acted as a catalyst for Federal and state funding. To date, such funds have amounted to nearly $2.5 million in grants and another $1.4 million in Farmers Home Administration loans.

Other states have benefited from the NDWP to a similar degree and fashion. Several states now have initiated programs which provide funds to local water service development agencies. Previous to the NDWP's birth several years ago, such funding avenues were non-existent.

The NDWP's funding through the CSA will terminate on January 31, 1978. I am worried that this may signal the fiscal collapse of this effective organization. I am further troubled by reports that the CSA has not acted on the NDWP's most recent funding request and has been uncooperative during the last several months.

I can see no reason for such treatment. The CSA and the NDWP are in the same business of advancing economic and social community development in this country. In championing the cause and addressing the needs of localities, whose development depends upon the availability of adequate water supplies, the NDWP's accomplishments have been no less than outstanding. It is one thing to terminate the funding of ineffective programs which have been fraught with failure. It is quite another thing to eliminate the one program which offers the best prospect of answering the most fundamental need faced by underdeveloped rural communities.

It is my understanding that the Labor-HEW Subommittee of the Senate Appropriations Committee will be holding hearings on the 1979 budget for the CSA tomorrow. I wanted you to know of my support for the continued funding by the CSA of this very worthwhile program.

Thank you for your consideration of this recommendation.

Sincerely,

Dale

Dale Bumpers

U.S. SOLDIERS' AND AIRMEN'S HOME

STATEMENT OF F. T. UNGER, GOVERNOR

ACCOMPANIED BY.

ERNEST L. JANES, SECRETARY-TREASURER
R. A. GRITTON, BUDGET OFFICER

BUDGET REQUEST

Senator BROOKE. We will now hear testimony from General Unger, Governor of the U.S. Soldiers' and Airmen's Home.

The fiscal year 1979 budget request is for $16,939,000, an increase of $57,000 over the comparable fiscal year 1978 appropriation.

General Unger, you have appeared before this Committee many times. Please proceed as you wish.

PREPARED STATEMENT

General UNGER. Mr. Chairman, I have a formal statement which I would like to place in the record.

Copies have been furnished to the members of the Committee.

Senator BROOKE. Without objection it shall be placed in the record.

[The statement follows.]

PREPARED STATEMENT OF GENERAL F. T. UNGER

PURPOSE

The purpose of this statement is to furnish information on the Home which may be of interest during the committee's consideration of the Home's fiscal year 1979 appropriation request. Included is pertinent information on the Home: its mission, administration, physical plant, financing, and members. The statement also provides a general description of the fiscal year 1979 appropriation request as compared with the fiscal year 1978 appropriation.

MISSION

The Home was established by Congress in 1851 for the relief and support of old, invalid, or disabled soldiers of the Regular Army. Basic eligibility criteria have not been changed except to cover airmen and enlisted women of both services. The Home's name has been changed to properly reflect the airmen's eligibility and vested interest. Membership is a benefit for former warrant officers and enlisted personnel of the Regular Army and Air Force with the following qualifications: (1) honest and faithful service for twenty years or more as warrant officers or enlisted personnel, or (2) service-connected disabilities rendering them unable to earn a livelihood, or (3) non-service connected disabilities rendering them unable to earn a livelihood, provided thay have had service during a war. These criteria are listed in this order, not as priorities, but because about eighty-six percent of the membership is of the first group, and about fourteen percent is of the disabilities groups.

ADMINISTRATION

General supervision of the Home was placed by Congress in a Board of Commissioners now composed of the Governor of the Home, the Comptroller of the Air Force, the Chief of Engineers of the Army, the Surgeon General of the Army, the Judge Advocate General of the Air

Force, the Adjutant General of the Army, the Assistant Deputy Chief of Staff for Personnel of the Air Force, the Sergeant Major of the Army, and the Chief Master Sergeant of the Air Force. Subject to approval by the Secretary of the Army and the Secretary of the Air Force, the Board has authority to establish regulations for the internal direction of the Home. Thw law provides for an annual report of inspection of the Home by the Army Inspector General and Auditor General to be submitted to Congress.

PHYSICAL PLANT

The Home is situated in northwest Washington, D. C. Facilities include four domiciliary and three hospital buildings, a service area, a heating plant, a laundry, and some minor structures. The domiciliary capacity of the Home is 2149 beds. Our hospital has a constructed capacity of 410 beds, with optimum usage of 348. Throughout the years, the loss of Home lands to other activities has reduced the acreage from about 500 to the present 300. The members of the Home are grateful for the support provided by committees of Congress for retention of the Home's land against proposals to further reduce it.

FINANCING

The Act of 1851 provided that the Home be supported from two principal sources: (1) a monthly contribution while on active duty of twenty-five cents from each enlisted member and warrant officer of the Regular Army and Air Force, and, (2) fines and forfeitures imposed upon these personnel by sentence of courts-martial. The Act of 1883 established a Permanent Fund in the U. S. Treasury and provided for the payment of interest of 3% per annum on the fund balance. On December 15, 1973, the Act of 1883 was amended so as to increase the interest paid on our Permanent Fund balance. This increased rate is determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States. Under this amendment, the Home is now receiving about 6.5% interest on its fund balance. In addition, Public Law 94-454, October 2, 1976,

authorized the collection of a fee from the members of the Home and an increase from twenty-fiveto fifty cents in the amount of the monthly active duty deduction. The Permanent Fund balance on September 30, 1977 was $92 million.

MEMBERSHIP

Our male members range in age from 39 to 100, with an average age of 64. Our female members range in age from 45 to 83, with an average age of 69. There are 81 female members. Average total membership during fiscal year 1977 was 2,308, including 2,206 present. Fiscal year 1978 average total membership is expected to be 2,270, including 2,175 present. The fiscal year 1979 budget is based on an average total membership of 2,225, including 2,130 present. Because Home membership was fast approaching full capacity, the Board of Commissioners' approved priority system for admission to the Home was implemented in February, 1974. Our hospital is full, which accounts for our Waiting List of approximately 160 persons, all of whom require extended hospitalization.

THE FISCAL YEAR 1979 BUDGET FOR OPERATION AND MAINTENANCE

The Home's fiscal year 1979 operation and maintenance appropriation request at $16,939,000 is $57,000 more than its fiscal year 1978 appropriation of $16,882,000, which includes a $526,000 pay raise supplemental. A detailed description of the $57,000 increase is included in the Home's justification booklet which has been submitted to the committee. In summary, this $57,000 increase is a net of the following additions and reductions in program changes:

Additions of $328,000:

$127,000+: In FY 79, the Home plans to spend $147,000 to replace two elevators, repair one elevator, and up-date automatic controls on 6 boilers and smoke alarms in the heating plant. In FY 78, the Home's improvement program amounted to $20,000 and covered replacing the air conditioning in one Home theater and repair to a walk-in refrigerator at the hospital.

105,000+: To provide for inflation in the cost of electricity, fuel oil and food.

96,000+: Increased reimbursement in FY 79 (over that of FY 78) to the Department of Labor for compensation benefits actually paid to Home employees in FY 77, and increased cost of annualizing in FY 79 the pay raise granted in October 1977.

Reductions of $271,000:

$180,000-: A reduction of 15 man-years of employment in full-time permanent positions to be made through attrition and distributed in areas least likely to impact on the care of members.

46,000-: Because of large expenditures in FY 77 and 78 to compensate for past deferrals, the amount of routine painting and roofing is reduced in FY 79.

24,000-: A reduction in the average number of domiciliary members will decrease the cost of food and supplies.

21,000-: Miscellaneous program reductions and additions, respectively: $15,000 less severance pay, $3,000 less equipment repairs, and $11,000 increased QSL receipts, totaling $29,000, offset by a $6,000 increase in data processing and a $2,000 increase in employee tuitions.

CAPITAL OUTLAY

The Home is not requesting an appropriation for Capital Outlay in fiscal year 1979.

INTRODUCTION OF ASSOCIATES

General UNGER. With me today are Colonel Janes and Mr. Gritton.

DESCRIPTION OF HOME

In the interest of the Committee's time, I will keep my remarks brief.

First, I would like to say that the home is located on 300 acres in Northwest Washington, in the vicinity of Catholic University. It has been there for a little over 125 years.

Senator BROOKE. I was born near there. I know it very well.

General UNGER. One of the things that is unique about the home is the fact that it is self-supporting. We do not ask for money from the Government, only the authority to spend our own money. This is most unusual. Because many people do not know this, it is important that I point it out.

All I come here for, and it is a good thing for the old checks-and-balances system of our Government, that the budget we set up, we believe we need for operations for the year in question, that somebody looks and checks and says whether it is correct.

We have a little over 2,200 members, soldiers and airmen; about 35 percent Air Force.

We have 81 ladies at the home. Our first lady was admitted in 1955. The home is pretty much self-sufficient, having a heating plant, dry-cleaning plant, laundry, butcher shop and so forth.

TRUST FUND

Our money comes from a permanent fund in the Treasury of the United States, and is generated from four sources.

Without going into detail, it comes from the soldiers and airmen themselves. So, each has a vested interest in the home.

I would be glad to try to answer any questions you may have. Our budget totals $16,939,000, which is only $57,000 greater than the 1978 budget as you indicated.

If you will look on pages 4 and 5 of my formal statement, you will see that we have listed three additions and four reductions which, together, show a net increase of $57,000.

Senator BROOKE. How much is in the trust fund?

General UNGER. We have approximately $92 million.

Senator BROOKE. Is it financially sound over the long term?

General UNGER. Originally, in my opening remarks I had planned to tell you a little of the effort we have been exerting during the last 5 years on the subject of fiscal viability. We are subjected to the same inflation as everyone else, whether it be an individual, a business, a corporation or a government.

We eat the same food, and burn the same fuel oil and electricity. In the 1950's and 1960's the home did very well, in that we were able to build new buildings and still, over those two decades, we improved our fund by about $70 million.

FINES

But in the 1970's, the thing turned around and again I say, inflation started to hit us. That plus the fact in 1963, the services changed the Courts-Martial manual. They changed it to a uniform code of military justice.

In doing this, I believe inadvertently, they removed from us funds we had theretofore been getting.

These are funds currently assessed to a soldier for miscellaneous minor offenses when he gets what is called an article 15.

Now that is no longer in the court martial milieu. It used to be in the summary court. They pulled it out for a good reason. The Army liked it and so did the Congress, because you take a young man and his first offense, it is a minor thing, still and all, it is such that he had to be tried by court martial, even though it was only a summary court martial, but that carried with it the stigma of a Federal offense and we didn't think that was right.

So we took it out of the court martial business and put it into the nonjudicial atmosphere. And we took, say, an officer, colonel, or brigadier general, and put certain limits on him as to what he could assess by way of fines.

And it is two-thirds of 1 month's pay. Those moneys which theretofore used to come to us no longer come to us, since 1973.

I say inadvertently. I am sure if somebody had touched someone else and said, now that you are taking this out of the court martial business and because the law says we get court martial fines and forfeitures, I am sure you do not mean for the home to lose those funds.

Well, someone did not object. So as a result we have been losing them. So the combination of that has put us in a little trouble, so we have been in the throes of an in-depth study for the past 5 years.

We have done everything we know to first increase our income. I would say our fund today would be $35 million less than it actually is if we had not taken the actions we have taken.

LEGISLATION

But still and all that was not enough. So we finally resorted to legislation.

In 1975 I got a bill introduced in both the House and Senate and in 1976 I thought I had it locked in.

The House passed the bill in toto except they reduced one little item, which is insignificant.

I went to the Senate and the Senate let me down. I had three items in the bill. Two of them they passed, but the biggest item they deferred.

The nonjudicial forfeiture which I just talked about.

Under the rationale that somebody needed to look at our fiscal requirements.

GAO REPORT

That is all we have been doing for 5 years. We have undertaken the most comprehensive study in the history of the home. So they

said, let's have the GAO look at it. They did look at us. They spent 9 months in residence at the home.

They came up with a report, treated us nicely in the report except the bottom line said that, in their estimation, we did not need to fear going into deficit financing again until fiscal 1985, to which I disagree wholeheartedly.

In fact when we make up our fiscal year 1980 budget this year, we will be doing it. I am talking 1979 right now. We will show deficit financing.

We would not have to do that if we had gotten nonjudicial forfeitures. So I am going in for that item.

LEGISLATION

I am just about to start my business up on the Hill again to get another bill introduced to give us the nonjudicial forfeitures.

If I am successful this year on that we will assure the fiscal viability of the U.S. Soldiers' and Airmen's Home well into the 21st century and I am hoping, Senator, that you will support us.

Senator BROOKE. Is that the only recourse you have?

General UNGER. That's correct, because we are self-supporting. We ask for nothing. We get nothing from the Army. We get nothing from the Air Force, nothing from the Government.

In fact, we like it that way. Our sister home, which is the Naval Home, they were formed 20 years before us in Philadelphia. Just last year they moved, in 1976, to Biloxi, Miss.

Since 1935, they fell off this independent status they used to have, which we feel we currently have.

As a result, where do you expect they stand in relation to the Active Forces? Nowhere but where they should be. They are at the end of the totem pole.

I'm not denigrating them at all, but it's not nearly the home that the Soldiers' and Airmen's Home is.

We have 2,200 people, they have 300 people. They are on 20 acres, we have 300. We used to have 500. We don't want any appropriations. But we do believe and say we have a justifiable case for the nonjudicial forfeitures and I hope to get it.

Senator BROOKE. Have you filed the bill yet?

General UNGER. Sir, I was waiting. The Congress just came back on the 19th, and I thought I would give them a few days' rest.

Senator BROOKE. It's already drafted, I'm sure.

General UNGER. I have a book. In fact, I have a book ready. I would love to talk with you and show you my book and give you my reason and hope for your support.

But to come back again, our fund today is $92 million. It would have been a lot less even with what we have done had we gotten the legislation.

It turns out that legislation was really only short term and when, in fact, we make up the fiscal 1980 budget, in fact, this budget may, depending on what pay raise they give in October 1979, it might put us into deficit financing again.

All it did was extend the period. I failed to tell you when we started into getting legislation, if we got no relief and assumed, say, a 7-percent average cost-of-living increase each year, our fund would be depleted in 1986.

Now, with the 94-454, the public law, all it did was extend the date only by 4 years, 1990, when it will be depleted.

But if I get this item, which I'd hoped to get and have to go back again to try to get, this will put us well into the 21st century and insure our viability on something for which we have a sound and viable case.

TRUST FUND INVESTMENT

Senator BROOKE. How are your trust funds invested?

General UNGER. The Treasury does that, sir. You know, by the law of 1883, we'd been getting only 3 percent interest. That went on for 90 years.

I finally got that changed in 1973 by a law. By that law, we now—the interest we get on our trust fund is based on the interest rates the obligations of the United States develop.

So we dickered with the Assistant Secretary of the Treasury on how much interest we should get. We came up with, after 4 months of negotiation—I took two-thirds of my fund at that time and said, we are going to invest this in midterm obligations of the United States—or asking the Assistant Secretary to do that for us.

Then the other third, let that float with the short-term market. For the two-thirds, the $65 million, we were assured, and we are still getting 7 percent interest. That goes on until June 30 this year.

We are still getting it. The other part floats with the market. Each quarter the Assistant Secretary informs me what my rate will be. It's currently up to 6.1.

Now if you put the two together and weight them, as a result of the change in law, we have been getting 6.5 percent interest, as opposed to the 3 percent.

MEMBER FEE

Senator BROOKE. What portion of the home's revenues come from collecting fees?

General UNGER. The first year we assessed a fee—that was part of the new legislation. We received $1.2 million.

So you can see $1.2 million out of $16 million is less than 10 percent of the home's revenues.

Senator BROOKE. All right, General. Thank you very much for your testimony.

[CLERK'S NOTE.—The justification material for this account appears in the House fiscal year 1979 Labor-HEW Appropriations Subcommittee hearing record.]

SUBMITTED QUESTIONS

I have some additional questions which I will submit to you for the record.

General UNGER. Thank you.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

Questions Submitted by Senator Brooke

Question: What type of cooperative programs do you have with the Veterans Administration Hospitals?

Answer:

a. The Washington, D. C., VA Hospital has been helpful in supporting the U. S. Soldiers' and Airmen's Home's Alcohol Program with advice and audio-visual aids.

b. Our members are referred to VA facilities for educational and vocational counseling, as well as beneficiary assistance and special equipment when indicated, e.g., special personal wheelchairs.

c. Some Home members who started their treatment - particularly in psychiatry - at the Washington, D. C., VA Hospital, continue to be treated there.

d. VA provides necessary hearing aids for our Category III members (persons who do not qualify for hearing aids because they are not retirees of the Army or Air Force).

Question: What categories of persons would be better served by the Soldiers' Home than by Veterans Administration Hospitals?

Answer: Only those persons eligible for Home membership can be served by the Home's Health Care Facility. The Home provides primary health care for its members, and principally provides an assurance of timely health care at all stages of aging, debility and illness. Acute hospital care is provided by Walter Reed Army Medical Center (WRAMC). When adequate facilities are not available at WRAMC, the VA Hospital, Washington, D. C., has responded with acute emergency support.

Question: Does the Home have any problem complying with recent HEW regulations implementing Section 504 of the Rehabilitation Act requiring access for the handicapped?

Answer: Although Section 504 is not applicable to the Home, the Home has no problem complying with Section 501 of the same Act.

Question: What does it cost to maintain a member in the Home, as opposed to placement in a Nursing Home?

Answer:

a. In FY 1977, the annual cost of maintaining a Home member was $7,067. Membership in the Home provides much more than the average Nursing Home. In addition to the provision of quarters, food, laundry and dry cleaning service and access to well-developed recreational facilities, the Home provides the assurance of all medical care, to include primary Ambulatory Health Care and Emergency Room services around the clock for its membership.

b. Examples of scheduled fees for local Nursing Homes are listed below:

Nursing Home No. 1 - Nonprofit

(1) Skilled care and intensive care -- $1,097/month, or $13,164/year. These fees do not include the expenses for doctors' services or personal items. Each patient arranges for his own doctor and pays additional fees therefore, and as required.

(2) Intermediate care -- $697/month, or $8,364/year.

(3) Residential care -- efficiency apartment at a cost of $390/month, or $4,680/year. These fees provide for one meal per day and ten days of nursing care per year. Initial fee for enrollment in Residential Care ranges between $8,000 and $17,000.

Nursing Home No. 2

(1) Skilled care -- $1,000 to $1,100 per month, or $12,000 to $13,200 per year. These fees do not include the expense for doctors' services.

(2) Domiciliary care -- $340 per month, or $4,080 per year. These fees provide three meals per day and access to a nurse on duty. Although exact amounts could not be obtained, it was learned that the initial fee for enrollment in Domiciliary Care may require half of the applicant's assets.

Question: How many members, as well as those on the admission waiting list requiring extended hospitalization, could be adequately cared for in nursing homes?

Answer: Considering the "total" range of services provided to Home members (and potentially to those on the admission waiting list), none could be adequately cared for in nursing homes.

Question: Summarize the findings and recommendations of the recent General Accounting Office report concerning the short- and long-term financial requirements of the Home.

Answer:

a. The central theme of the GAO report is that the additional resources authorized by Public Law 94-454 will permit the Home's Permanent Fund balance to grow until about mid-1985, when the Home will again be required to use money from the principal of its Permanent Fund to support part of its operation. The GAO then recommended that further attempts to increase the Home's revenue sources be deferred until the effects of Public Law 94-454 can be better gauged. Looking to the future, GAO developed a number of alternative methods which it suggested the Board of Commissioners might use in overcoming future declines in the Permanent Fund.

b. The GAO additionally recommended that the Home Hospital be reorganized by physically separating the approximately 50 acute care patients and the approximately 300 extended care patients. If this were done, GAO believes that savings of $450,000 to $500,000 per year could eventually be effected through the reduction of 4 physicians and 40 nursing assistants.

c. The Home's principal disagreement with the GAO report is on the matter of timing as to when the Home will need additional revenue sources. The GAO's assessment of the Home's fiscal condition emphasizes the belief that the implementation of Public Law 94-454 will place the Home in a nondeficit financing posture until mid-1985, and, therefore,

will provide sufficient time during which further requirements for additional revenue resources can be accurately gauged. Conversely, the Home is convinced that despite the implementation of Public Law 94-454, it will again be confronted in FY 1978 (in the development of its FY 1980 budget) with the imperative of deficit financing unless it receives the additional income derived from nonjudicial forfeitures.

d. The crux of the Home's disagreement with GAO's timing stems from its belief that GAO's projections of Home income and expenses are, respectively, overly optimistic and grossly understated. In this connection, the Home cannot accept the GAO assumption that future annual O&M increases will parallel the experience of the past 16 years, which reflects an average annual O&M increase of only 5.85%.

e. Concerning GAO's recommended reorganization of the Home Hospital, the Home agrees that a physical separation of the acute and extended care patients is desirable, but it does not agree that savings of the magnitude included in the GAO report can be achieved without seriously impacting on the health care needs of its members. In an effort to determine the level of hospital savings that prudently could be achieved, the Board of Commissioners directed that an in-depth review of Home Hospital operations be undertaken by an Ad Hoc Committee of the Board under the chairmanship of The Surgeon General, Department of the Army. Based on this review, the Board submitted a report to the Congress, the Comptroller General, and the Office of Management and Budget, taking the position, as summarized below:

(1) The Home Health Care Facility has been reorganized along the general lines proposed in the Comptroller General's report.

(2) The Home is requesting accreditation of the essential health care services provided by its health care facilities. This request will not include accreditation for an acute health care facility.

(3) The staffing reductions proposed in the Comptroller General's report cannot be made without eliminating some aspect of the

range of essential health care needs currently being provided by the Home Health Care Facility. Conversely:

(a) Although the number of physicians cannot be reduced at this time, at some point in the future, following the negotiation and actual implementation of the needed bilateral written agreements for emergency care, the existing physician staff requirement will be reduced by two physicians.

(b) Under the supervision of the Chief, Army Nurse Corps, a complete review of the total nursing services was undertaken, which realigned personnel and functions compatible to the health care needs of the total Home community. Although this review resulted in an increase in the nursing service, this increase was satisfied by reductions in other areas exclusive of those delineated in paragraph (3)(c) below.

(c) A reduction of two personnel in the Linen Exchange section can be effected immediately; and a reduction of 11 personnel in the Housekeeping section can be undertaken by the end of the current fiscal year, at which time the necessary sophisticated cleaning equipment can be procured and personnel trained in its effective use. These reductions in the overall workforce will, of course, be implemented by attrition; therefore, the actual elimination of the excess personnel could very well extend into FY 1979.

(d) Staffing reductions included in (3)(a), (b) and (c) above will result in a net budget savings of $95,000 by the end of FY 79.

(4) The emergency medical plan recommended by the Ad Hoc Committee is currently in the process of development. Various other recommendations of the Ad Hoc Committee not currently under development will be studied, planned and implemented as soon as time and staffing permit.

RAILROAD RETIREMENT BOARD

STATEMENT OF JOHN S. SUKER, DIRECTOR, BUDGET AND FISCAL OPERATIONS

ACCOMPANIED BY:

KENNETH J. NOLAN, CHIEF EXECUTIVE OFFICER
EARL OLIVER, MANAGEMENT MEMBER
CHARLES J. CHAMBERLAIN, LABOR MEMBER
DALE G. ZIMMERMAN, GENERAL COUNSEL

BUDGET REQUEST

Senator BROOKE. We will now hear from John Suker, Director of Budget and Fiscal Operations for the Railroad Retirement Board.

The Board has its headquarters in Chicago, and is charged with the administration of the railroad retirement system. The budget requests for 1979 include $313 million for payment of dual benefits, the 1978 appropriation is $250 million; $25 million for regional rail reorganization protective accounts, the 1978 appropriation is $50 million; and $34.3 million for salaries and expenses.

You may introduce those seated at the table with you, and then you may begin your testimony.

Mr. Suker, as I said I trust you understand with the time pressures we have upon us that if you would put your statement in the record we would be most appreciative.

INTRODUCTION OF ASSOCIATES

Mr. SUKER. I will do so, Senator. Before I begin the testimony I would like to have Mr. Chamberlain, who is a new Board member, introduce the parties at the table.

Mr. CHAMBERLAIN. Thank you, Mr. Chairman. It is certainly a privilege for the Retirement Board officers to appear before this Committee to discuss the estimate for operation of the Retirement Board for fiscal year 1979.

We have with us today at my far left Mr. Kenneth Nolan, Chief Executive Officer. Next to him is Mr. Earl Oliver, Management Member, ranking member of the Board who was appointed on August 5, 1977.

Mr. Suker, our Director of the Bureau of the Budget and Fiscal Operations.

Mr. Dale Zimmerman to my right, Chief Counsel, Bureau of Law.

As John pointed out I am the Labor Member on the Board and have been on board since October 10.

PREPARED STATEMENT

Senator BROOKE. Thank you, Mr. Chamberlain. We have your prepared statement and will insert it into the record at this point.

[The statement follows:]

Prepared Statement of John S. Suker

Mr. Chairman and Members of the Committee, before discussing the specifics of our 1979 budget request, I would like to furnish some general information regarding the Railroad Retirement Board.

Programs Administered by the Railroad Retirement Board

The Railroad Retirement Board administers a regular retirement system for the payment of retirement and disability annuities to railroad employees, annuities to their spouses, benefits to their survivors, and payment under certain conditions of supplemental annuities, in addition to regular annuities. The Board also administers a system for the payment of unemployment and sickness benefits to qualified railroad workers, and participates in the administration of the medicare program for persons covered by the Railroad Retirement Act.

Structure of the Board

The Railroad Retirement Board is administered by a three-member Board appointed by the President, by and with the advice and consent of the Senate -- one member upon the recommendation of representatives of employees, one upon recommendation of representatives of carriers, and one, the Chairman, without designated recommendation. The present carrier member was first appointed August 5, 1977, the labor member on October 10, 1977, and the Senate is now considering the nomination of the at large member.

Financing the Railroad Retirement Program

The railroad retirement system is financed by taxes paid by railroad employees and employers into trust funds. The amounts needed for benefit payments and administrative expenses are derived from these trust funds. Congress must authorize the amounts to be spent for administrative expenses.

Payments for Dual Benefits

Under the Railroad Retirement Act of 1937, an individual engaging in covered employment under both the Railroad Retirement Act and Social Security Act could, under certain conditions, receive benefits under both Acts. Because

the weighting factors inherent in the social security benefit formula produce a proportionately higher benefit for low earnings and short term employees, dual beneficiaries receive a higher return for the taxes contributed since in most instances the social security coverage is only supplementary to their regular railroad employment. The cost of this higher return was borne by the Railroad Retirement Account.

The Railroad Retirement Act of 1974, P. L. 93-445, authorizes annual general fund appropriations on a level cost basis from 1976 through year 2000 to phase out the cost of this higher return. P. L. 93-445 also provides that the Board shall, at the time of each actuarial valuation prior to the fiscal year 2000, determine whether an adjustment should be made in this appropriation. The thirteenth actuarial valuation indicated that the level appropriation starting with fiscal 1977 should have been $350 million. Since only $250 million had been appropriated for 1977 and 1978, the $350 million was increased to $363 million starting with fiscal 1979 to make up for the $200 million shortage in 1977 and 1978 and the loss of interest on that $200 million. The Administration is proposing legislation to no longer index the initial windfall benefit for workers who retire after December 31, 1978. This is designed to decrease the amount from $363 million to $313 million.

Payments for Regional Rail Reorganization Protective Benefits

The Regional Rail Reorganization Act of 1973 provides for various benefits to protected employees adversely affected in the establishment of the Midwest and Northeast rail system provided by that Act.

The payment of all allowances, expenses, and costs provided protected employees will be made by specified organizations under that Act. Upon certification to the Railroad Retirement Board these organizations will be reimbursed for amounts paid to protected employees. A general fund appropriation request of $25,000,000 for 1979 is being made to cover estimated benefit payments in 1979. The amount includes $75,000 for administrative expenses incurred by the Board to carry out its responsibilities under the law.

Limitation on Salaries and Expenses - 1979

The amounts requested under this appropriation account title represent a limitation on the use of trust fund monies for the administrative expenses of

the railroad retirement system. Repeated amendments to the basic Acts present a continuing problem in attempting to keep abreast of workloads. These amendments were culminated by the passage of Public Law 93-445, the Railroad Retirement Act of 1974, effective January 1, 1975, which completely restructured the railroad retirement system.

For fiscal year 1978, the regular limitation on salaries and expenses is $33,282,000, which is the amount approved by the House and Senate. There is now pending a Pay Act supplemental of $1,590,000 for 1978, which would raise the 1978 limitation to $34,872,000. The 1978 regular limitation included $1,100,000 in increased rental costs in the event the Board's headquarters was moved to new quarters. That move did not take place thus far in 1978, but we are now negotiating with GSA to resolve our space problem.

With the remaining funds, we expect to continue to service the monthly benefit roll of 1,030,000 beneficiaries; process 225,000 new applications for benefits and pay benefits amounting to 4 billion dollars.

For fiscal year 1979, the budget request contains $34,317,000 as the Limitation on Salaries and Expenses. In fiscal year 1979, we will attempt to clear up the backlogs created by Social Security Amendments of 1977 and Supreme Court decisions that carried over from 1978, service the monthly benefit roll of 1,030,000 beneficiaries, process 171,000 new applications for benefits and pay benefits amounting to 4.2 billion dollars.

REGIONAL RAIL REORGANIZATION PAYMENTS

Mr. SUKER. Senator, I believe you summarized our request very briefly. We will entertain any questions you may have.

Senator BROOKE. Fiscal 1978 appropriation payments to regional was $50 million; the 1979 budget requests $25 million.

What are the costs of this?

Mr. SUKER. Under the Regional Rail Reorganization Act of 1973, there were various kinds of benefits provided to displaced railroad workers in the Northeastern part of the United States.

Those included termination allowances, monthly displacement allowances and other kinds of allowances. Some of those will now begin to disappear: for example, the separation allowances and some of the termination allowances.

The monthly displacement allowances, of course, will continue to remain in effect, so that we anticipate a reduction in the amount of payments under the Regional Rail Reorganization Act.

Senator BROOKE. Do you anticipate you will later have to request supplemental funds for the program as you did in fiscal 1977?

Mr. SUKER. Based on what has happened very recently, that could be a possibility. There have been some layoffs with ConRail recently and this may cause an increase in the amount of benefits ConRail is paying.

At this particular time we have not felt the impact of that.

Senator BROOKE. And you can't make any estimates at this time of a possible supplemental request?

Mr. SUKER. Not at this particular time, Senator.

OPERATION AND MAINTENANCE

Senator BROOKE. Now, this decrease of $1.2 million, rent, communications and utilities, why is there such a reduction in cost of these items?

Mr. SUKER. In our 1978 budget we had an amount of $1,100,000 for increased rental costs had we relocated our headquarters installation. We had planned to relocate it, but have not done so. Therefore, the $1.1 million in 1978 presumably will not be used and we did not make a similar allocation in 1979.

The difference is primarily in the rental cost that we anticipated as a result of the move.

PROPOSAL TO ELIMINATE CERTAIN WINDFALL BENEFITS

Senator BROOKE. Now, the statement of the Railroad Retirement Board indicates the administration is proposing legislation to no longer index the initial windfall. For workers who retire after December 31, 1978, what effect will this proposal, if enacted, have on commitments to beneficiaries provided for in the 1974 legislation?

Mr. SUKER. In essence it will wipe out the cost-of-living increase that was provided in the 1974 act for certain individuals who would have received those had they retired after December 31, 1978.

Senator BROOKE. That is kind of difficult; isn't it?

Mr. CHAMBERLAIN. Mr. Chairman, speaking as a labor member and for the concern of the labor constituency which I certainly

represent, we are very concerned because of the fact that everybody had believed that the 1974 legislation provided certain benefits.

If this proposal is enacted that would be cutting away from those benefits already promised by legislation.

Senator BROOKE. That concerns me, Mr. Chamberlain.

I am sure it concerns you.

Mr. OLIVER. May I add that as management member I share Mr. Chamberlain's concern.

Senator BROOKE. I am pleased that both of you are concerned about it. I certainly am. I am sure you are, Mr. Suker.

Mr. SUKER. The administration is planning to propose this particular legislation in this session. The net effect has not yet been determined by our actuaries.

Senator BROOKE. You have no impact statement from them at all?

Mr. SUKER. The administration has estimated that it would reduce the amount of the dual benefit windfall appropriation by as much as $50 million. Our actuaries now are preparing a paper based on the actual legislation, or at least proposed legislation, to determine whether those estimates are accurate.

SUBMITTED QUESTIONS

Senator BROOKE. All right, we will continue to monitor that. I have additional questions and will submit them to you for your response.

Thank you.

Mr. CHAMBERLAIN. Thank you, sir.

Mr. SUKER. Thank you.

[CLERK'S NOTE.—The justification material for this account appears in the House fiscal year 1979 Labor-HEW Appropriations Subcommittee hearing record.]

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

Questions Submitted by Senator Brooke

QUESTION: Last year a new actuarial valuation of payments to the Railroad Retirement Trust Fund estimated that $356 million, rather than the originally-recommended $250 million per year for 25 years, would be required to keep this program on a sound financial basis.

Pending further review by the Office of Management and Budget and other parties, the Congress appropriated $250 million for fiscal 1978.

The budget request for 1979 has been increased to $313 million

How was this figure arrived at?

ANSWER: The Railroad Retirement Act of 1974 authorizes annual appropriations on a level cost basis from 1976 through the year 2000 for costs of phasing out the windfall portion of dual benefits. The original appropriation was based on estimates made prior to enactment of P.L. 93-445. The original estimates indicated that the dual benefits would cost $285 million per year over the 25-year period and that $35 million additional per year would be gained over the period due to the new investment provisions. Accordingly, $250 million was requested and appropriated for fiscal 1976 and 1977. P.L. 93-445 also provides that the Board shall, at the time of each actuarial valuation prior to the fiscal year 2000, determine whether an adjustment should be made in this appropriation. The thirteenth actuarial valuation, however, indicates that the level appropriation starting with fiscal 1977 should have been $350 million ($360 million gross less $10 million

additional investment income). Since only $250 million has been appropriated for 1977 and 1978, the $350 million was increased to $363 million starting with fiscal 1979 to make up for the $200 million shortage in 1977 and 1978 and the loss of interest on that $200 million. The Administration is proposing legislation to change the method of computing the windfall benefit for workers who retire after December 31, 1978. The estimated effect by the Administration of those changes is to reduce the $363 million to $313 million, the amount of the appropriation request.

QUESTION: Will this amount be sufficient to meet the needs of the trust fund?

What are your current projections of the annual funding requirements for the trust fund for the remaining 21 years?

ANSWER: The amount, $313 million, will be sufficient to meet the needs of the trust fund if the proposed legislation is enacted and the savings resulting from the reduced benefits for certain beneficiaries who retire after December 31, 1978, does in fact, amount to $50 million annually.

As specified in the Railroad Retirement Act of 1974, a recalculation will be made every three years to determine what the amount of the appropriation should be. The last actuarial valuation indicated the level amount for the remaining 21 years should be $363 million.

QUESTION: The Thirteenth actuarial valuation has projected that the level appropriation starting with fiscal 1977 should have been $350 million. This amount has been increased to $363 million starting with fiscal 1979 to make up for the $200

million shortage in 1977 and 1978 and the loss of interest on that $200 million. In the Board's judgment, if only $313 million is appropriated for 1979, what effect will this have on the operation of the system?

ANSWER: The $313 million appropriation is predicated upon certain changes aimed at reducing the amount of the windfall benefit after December 31, 1978. The net effect of those changes has been estimated at $50 million annually through the year 2000. If the estimated amount by the Administration is correct, the system would be in much the same position as before, that is, the trust fund would not have a cash flow problem until the mid 1980's.

QUESTION: You are requesting 30 new positions this year. Why do you need 30 additional positions?

What activities will these new employees perform?

ANSWER: The 30 additional positions will be used primarily to reduce current retirement backlog which backlog will be further compounded by the recent 1977 amendments to the Social Security Act. Additionally, some of the positions will be utilized for quality control activities and programs recommended by the Administration.

QUESTION: The statement of the Railroad Retirement Board indicates that the Administration is proposing legislation to no longer index the initial windfall benefit for workers who retire after December 31, 1978.

What effect will this proposal, if enacted, have on commitments to dual beneficiaries provided for in the 1974 legislation?

ANSWER: For any windfall arising from a death or retirement taking place after June 1979, the amount will be less under the proposal than under current law which became effective in 1974.

QUESTION: In 1977 we appropriated $2 million to relocate your headquarters to more suitable facilities in the Chicago area. The Board and GSA were unable to find a suitable building for you to move into. The $2 million has reverted to the Railroad Retirement Account.

What are your current plans for relocating your headquarters?

ANSWER: Presently the Board is meeting with top level GSA representatives to arrive at a solution to the Board's housing problems. Discussions have centered on relocating in federally leased space or relocating in commercial space. Budgetary implications will be determined when a decision is made on the foregoing solutions.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

STATEMENT OF BESSIE BOEHM MOORE, VICE CHAIRMAN

ACCOMPANIED BY:

ALPHONSE F. TREZZA, EXECUTIVE DIRECTOR
DOUGLAS PRICE, DEPUTY DIRECTOR
MARY ALICE HEDGE RESZETAR, ASSOCIATE DIRECTOR

BUDGET REQUEST

Senator BROOKE. Our next witness is Dr. Fredrick Burkhardt of Bennington, Vt.

Dr. Burkhardt is the Chairman of the National Commission on Libraries and Information Science.

Ms. MOORE. Mr. Chairman, Dr. Burkhardt could not come. I am Vice Chairman of the Commission.

Senator BROOKE. I know you very well. You are welcome as always.

We would not have the hearing without you.

The Commission is responsible for developing plans for meeting the library and information needs of the Nation, for coordinating Federal, State, and local activities to meet these needs, and for advising the President and the Congress on national policy in this area.

The 1979 budget request is $683,000, an increase of $120,000 over the 1978 level of $563,000.

PREPARED STATEMENT

Ms. Moore, please introduce those seated at the table with you, and proceed with your opening statement.

I hope you will place most of your statement in the record and will summarize it if possible.

[The statement follows:]

Prepared Statement of Bessie Boehm Moore

Mr. Chairman and Members of the Committee,

The National Commission on Libraries and Information Science requests for fiscal year 1979 a budget of $683,000. This will provide for studies, surveys, and other activities as well as for the costs of Commission meetings, task force and study group meetings, necessary travel, and for a permanent staff of nine people. The increase in this request over the fiscal year 1978 budget is $76,000. No additional staff positions are requested.

The National Commission on Libraries and Information Science is still a very small agency with a very large job. It was created in 1970 by Public Law 91-345 as a permanent, independent agency within the Executive Branch. The charge to the Commission contained in that law is to develop and recommend to the Congress and the President plans for the provision of library and information services and for the coordination of activities at the Federal, State and local levels necessary to meet the library and information needs of the nation more effectively. The Commission's first step in fulfillment of that charge was the development of a National Program Document, "Toward a National Program for Library and Information Services: Goals for Action." This document, which was formally adopted and submitted to the President and Congress in 1975, establishes the framework for implementing a National Program in terms of these eight objectives:

(1) Ensure that basic minimums of library and information services adequate to meet the needs of all local communities are satisfied.

(2) Provide adequate special services to special constituencies including the unserved.

(3) Strengthen existing statewide resources and systems.

(4) Ensure basic and continuing education of personnel essential to the implementation of a national program.

(5) Coordinate existing Federal programs of library and information services.

(6) Encourage the private sector (comprising organizations which are not directly tax supported) to become an active partner in the development of the National Program.

(7) Establish a locus of Federal responsibility charged with implementing the national network and coordinating the National Program under the policy guidance of the National Commission.

(8) Plan, develop, coordinate, and implement a nationwide network of library and information service.

To avoid taking up your time with needless repetition of material which is detailed in the appropriation estimate submitted last Monday, I would like to outline some of our approaches to accomplishing our many tasks and simply list the major efforts in various categories. I can then respond in detail in any areas where you have questions.

Since the completion of the Program Document, our preferred method of operation has been by the use of task forces. When a problem is sufficiently defined to permit development into working recommendations, we identify experts from the various concerned constituencies and invite them to participate in a series of meetings to develop specific detailed recommendations for further action. NCLIS pays only travel and per diem, but because these are task forces of the National Commission, there is sufficient prestige attached to the invitations to serve that we have had no difficulty getting "free," or, at least, unsalaried service from the best people in the field, people we could never afford at their usual rates.

Normally, two Commissioners serve on each task force, and at least one NCLIS staff member is assigned to each task force to work with them and take care of administrative detail and the assembly and dissemination of minutes, working papers, and so forth.

In Fiscal Year 1979, we expect to have task forces in various stages working on: The Role of the School Library/Media Center; Access to Monographic Literature; International Relations; National Information Policy Mechanisms; The Public/Private Interface; and The Locus of Federal Responsibility and Governance of the Emerging Full-Service Network.

Another favored method of operation is the use of interagency transfers of funds to acquire the expertise of another Government agency. During Fiscal Year 1979, we will certainly have such an arrangement with the Library of Congress for continuation of the study of authority files for the national network, and we will be working with the Office of Libraries and Learning Resources of the Office of Education on the management seminars for state library agency personnel.

Occasionally, when it is appropriate, we will let research contracts via the Request for Proposal route. The recently completed study of Library Photocopying is an example.

Of course, a certain amount of our time and a good deal of interest will be occupied by the White House Conference on Library and Information Services, which was authorized by Public Law 93-568, called by the President in 1976 and funded in May of 1977. The law specifically designates the NCLIS as the agency responsible for planning and conducting the Conference. Supplemental staff has been brought aboard to handle the considerable workload of coordinating with 50 states, six territories, and the District of Columbia on their various pre-conferences, assembling the results of these into a coherent working document for the National Conference in October of 1979, running the Conference, and, finally, producing a report of its results, but, inevitably, NCLIS Commissioners and staff are involved in all of these things.

Along with these specific tasks, we will be maintaining our continuing activities of promoting the dissemination of information, monitoring technological developments, keeping abreast of legislation in process which impacts library and information services, cooperating, coordinating and communicating with other Federal agencies, as well as professional, educational, and industrial associations and institutions to ensure that they learn what we know and vice versa.

So far, I have only scratched the surface of the variety of tasks and activities in which the Commission is involved, but it is all necessary, and there would be more, if the resources could be made available.

We are pragmatists, however, and will continue to do the best we can with what is available so that we can maintain steady progress toward the ideal:

> To eventually provide every individual in the United States with equal opportunity of access to that part of the total information resource which will satisfy the individual's educational, working, cultural and leisure-time needs and interests, regardless of the individual's location, social or physical condition or level of intellectual achievement.

We thank the Committee for its careful consideration of our budget requests in the past and hope that your action on our Fiscal Year 1979 budget request will be favorable.

BIOGRAPHICAL SKETCH

Bessie Boehm Moore, Vice Chairman, NCLIS. Commissioner since 1970.

Degrees: BSE State College of Arkansas, Conway, Arkansas
MA University of Connecticut, Storrs, Connecticut

Experience: Chairman, Arkansas Library Commission

National Advisory Commission on Libraries, 1966-68

Executive Director, Arkansas State Council on Economic Education, State Department of Education, 1962-

State Coordinator of Environmental Education, State Department of Education, Little Rock, Arkansas, 1970-74

State Supervisor of Economic Education, State Department of Education, Little Rock, Arkansas, 1962-74

State Supervisor of Elementary Education, State Department of Education, Little Rock, Arkansas, 1958-65

Honors: Arkansas Woman of the Year, 1952

Awarded Honorary Doctor of Laws Degree, University of Arkansas, 1958

Appointed in 1961 by Secretary McNamara to the Defense Advisory Committee on Women in the Services (DACOWITS), 1961-64

Only woman speaker at Southern Governors Conference at White Sulphur Springs, West Virginia, August, 1963

Awarded Distinguished Service Award, American Association of University Women, May 1966

Distinguished Alumni Award, University of Arkansas, 1974

Member, Board of Directors, First National Bank of Little Rock, 1971-

Member of the Board, Arkansas Foundation of Associated Colleges, 1975-

IMPLEMENTATION OF NATIONAL PROGRAM

Ms. MOORE. I would like to report just briefly that our work toward implementing our national program document, which we finished in 1975, is moving along nicely. I would like to describe what we think is a unique operating procedure to involve the library profession throughout the country by reading briefly from that part of my statement.

In implementating the program document, our preferred method of operation has been the use of task forces.

TASK FORCE OPERATIONS

When a problem is sufficiently refined to permit development into working recommendations we identify experts from the various concerned constituencies and invite them to participate in a series of meetings to develop specific detailed recommendations for further action.

We pay only travel and per diem. Because these are task forces of the National Commission, there is sufficient prestige attached to it that the people accept the invitation and we have their advice and expertise on a nonsalaried basis.

Normally two commissioners also serve on each of the task forces and at least one staff member is assigned to do the task force work for them.

We have found this to be an extremely effective method of attacking problems because you have the cooperation of the people in the field and because they not only understand the problem but that they are involved in the decisionmaking process.

In fiscal year 1979 we expect to have task forces in various stages working on the following items:

Role of the school library media center; access to monographic literature (books). International relations; national information policy mechanisms; Public and private interface; and local and Federal responsibility and governance of the emerging national network.

Another favored method of operation is the use of interagency transfers. We have done this with a number of agencies, working jointly with them. We, of course, have spent a good deal of time and had a good deal of interest in the upcoming White House Conference on Library and Information Services.

The preconferences will involve all the States and territories and, we are having an additional conference specifically for Indians living on or near reservations.

ONGOING ACTIVITIES

We will, of course, be continuing our present services, promoting dissemination of information, monitoring technological developments, and keeping abreast of legislation in process which impacts library and information sciences.

We will be cooperating and communicating with other Federal agencies as well as professional, educational and industrial associations and institutions to insure they learn what we know and vice versa.

I think we have done an exceptionally fine job of keeping in contact and standing at the gates, so to speak, to look after the needs and to give leadership to developing library programs nationwide.

Senator BROOKE. Thank you, Ms. Moore, for your statement. You have been in operation since 1971?

Mr. TREZZA. The law was signed in 1970.

Ms. MOORE. Our first meeting was in 1971.

PURPOSE OF WHITE HOUSE CONFERENCE

Senator BROOKE. You are now in the process of preparing for the White House Conference on Library and Information Services.

What task will be left over for the Commission to carry out after the completion of the White House Conference?

Mr. TREZZA. It is interesting, Senator, that this misconception is so common.

The White House Conference is exclusive of the National Commission. The National Commission's role, by law, is a continuing role of giving advice to the Congress and President on matters of library and information expenditures, services, and policy.

The library/information area does not stand still; technology is constantly changing. The White House Conference is a special mechanism to develop—it could have been assigned, for example, to the Office of Education. That would not have meant Office of Education would have finished its obligation once it ended the Conference.

Same with us. It is one mechanism. We try to work toward implementation of new library programs and to continue monitoring.

One of the problems we have always faced is how do you make sure we fully understand what the people in the field feel, lay people, the library people, that thing a program ought to be.

That is the role of the White House Conference. We have tried to get the States to identify their own problem as they see it.

This spring, for example, Massachusetts is having its conference, 2½ days. What it will do, it will first study the problems or discuss problems that face Massachusetts. It will discuss how they can resolve them in terms of local and State response and local and State programs.

And then what they think is the Federal role from the Massachusetts viewpoint. What kind of Federal help do they want. All this input from the States will be assembled by the Commission for consideration at the National Conference and hopefully come up with some recommendations for the Nation which are of two or three types.

One type would be how to use existing resources, fiscal, material, and human, more effectively and how to reorder our priorities; the second is how to promote effective use by libraries of new technology, and how to improve management:

And finally, what should be the new legislative initiatives to improve the provision of library/information services.

COMMISSION INDEPENDENCE

Senator BROOKE. Many believe that the Commission should be phased out after the White House Conference has concluded.

I wonder whether you think it would be possible for HEW or the Library of Congress to assume the Commission's responsibilities after the White House Conference had concluded.

Mr. TREZZA. Our law does not read that way. One of the greatest strengths the Commission has as opposed to, say, the Library of Congress or HEW, is the fact the Commission is an independent agency.

In the last 6 or 8 years, previous administrations, for example, had determined that categorical aid for library programs, such as LSCA, HEA, as well as other programs should be phased out.

The Office of Libraries and Learning Resources in the Office of Education could do nothing more than support that viewpoint, even though they knew it was wrong.

The Commission as an independent agency, however, was able to testify and oppose that position.

You can turn it the other way. If the Congress proposes something, the Commission is still free to express its independent view.

One of the Library of Congress basic roles is to serve the Congress. When Congress debated the establishment of the Commission, there was a long discussion about whether the Commission belonged in HEW, in the Library of Congress, or should be independent.

It was concluded it had to be an independent agency if it was to serve the needs as seen by the Congress and the Library and information community.

If, therefore, it were to be transferred, it would lose the major reason for its existence—its independence.

Ms. MOORE. I think this is unquestionably true, Senator.

COMMISSION FUNCTIONS

Senator BROOKE. When do you think the Commission will have completed its objectives?

Mr. TREZZA. Our legal mandate says the Commission shall have primary responsibility for developing and recommending overall plans for library and information service and advising the President, Congress, and other Government agencies.

Then it lists a series of authorized activities. The responsibility and the activities are continuing and can never be completed.

Senator BROOKE. Well, we will need some education in this field. I can tell you that because there are a lot of people who believe the Commission is tied in with the Conference.

I think you have indicated awareness yourself that there does exist in some quarters the feeling that once the Conference is over the Commission need no longer be in existence, other than for a reasonable time to phase out its activities.

Its responsibilities would then be transferred to HEW or the Library of Congress.

I think you have a job ahead of you. As you indicated from a reading of the law itself, there is no apparent legal justification for that position at all.

The Commission was formed at a time when, I believe—correct me if I am wrong—that there had not been any decision made on the White House Conference.

Mr. TREZZA. That's right.

Senator BROOKE. The idea for the Conference came after creation of the Commission.

So, obviously, we can't conclude that the Commission was formed to oversee——

Ms. MOORE. Not at all.

Senator BROOKE [continuing]. To oversee the White House Conference or any of the State conferences.

Mr. TREZZA. It is interesting that when the White House Conference law was proposed, many Commissioners really objected to assuming the assignment for that very reason. They were afraid that would happen. They were reassured by Congressman Brademas, for example, that Congress fully understood this as an additional assignment.

Senator BROOKE. I think their fears probably had some justification.

Ms. MOORE. We had rather long discussions about that and thought that this might happen to us.

As a matter of fact, the White House Conference should have the effect of developing a better understanding of the goals envisioned in the Commission's program.

Senator BROOKE. And the objectives of the Commission itself——

Ms. MOORE. Yes. But I agree with you completely that we need to overcome this misconception because, frankly, the ship will be left rudderless without somebody at the head of it.

Senator BROOKE. You don't feel HEW and the Library of Congress are adequate to that task?

Ms. MOORE. No, neither.

Mr. TREZZA. They have a precommitted role. Consequently, they can never look at problems and solutions with the same objectivity we do. We are a neutral agency and we are a nonoperating agency which is a very important point.

We are a small planning and coordinating agency. The Library of Congress is an operational activity, therefore, they have a given bias. HEW is the same; they administer grant programs which gives them a different bias, but a bias, nonetheless.

One of the reasons for the Commission was to have a nonoperating body, an independent planning commission which has as its constant role that of overseeing what is going on, and advising the administration and the Congress on library programs and legislation.

Current legislation being submitted by the administration, for example, has deficiencies in it, and we will so advise the Congress.

SEPARATION OF FUNDS

Senator BROOKE. Let me ask these few questions which I have.

The White House Conference on Library and Information Services will consist of 56 State and territorial conferences and a national White House Conference.

What actions have you taken to insure that the Committee's directive that the Commission insure that the funds provided in

this bill are not used to augment its regular operating budget in any way?

Mr. TREZZA. First, we keep the budgets separate. We have a separate bookkeeping set up for the White House Conference funds so we can control their expenditure.

Senator BROOKE. They are not intermingled.

Mr. TREZZA. They are not intermingled. We have to give OMB a combined statement, which we do, but we separate them internally.

Second, we have hired a staff on those funds to perform that operation. If anything—I'm using Commission time to help the White House Conference, rather than vice versa. So I would say we are scrupulous in making sure we don't use White House Conference money for Commission obligations.

Senator BROOKE. You are satisfied that the committee's directive has been lived up to, in letter and spirit?

Mr. TREZZA. Yes.

STATE CONFERENCES

Senator BROOKE. How many States have held State conferences to date?

Mr. TREZZA. So far, two. Georgia, which was first, and Pennsylvania.

There will be 4 this spring, 4 in the summer, 40 or so in the fall, and the balance in 1979.

Senator BROOKE. What have these conferences produced so far?

Mr. TREZZA. So far just what we have asked for. They have come up with recommendations for their own State level action and recommendations submitted to us for the national conference.

We will not do anything with these recommendations until all the States have had their conferences, and we have had a chance to review them all. We will then consolidate them into a manageable set for use at the National White House Conference.

Senator BROOKE. Is compliance with regulations on handicapped access a major agenda item at the State conferences?

Mr. TREZZA. Yes; it is.

LSCA title II is a place where some money to help libraries meet this need could be provided, but the administration hasn't recommended the funds

Senator BROOKE. Besides funding, which is always a problem, what are the major concerns of the libraries at these conferences?

Mr. TREZZA. Of course, the libraries look at services, not just funding, what services do people need, what services do they want?

A lot of the deficiencies can be resolved by reordering existing priorities and reassigning resources. They are looking at that as well. How do you serve, for example, the minorities better with the existing public library branches which have been skewed in one direction and now could be changed to play another role?

There is a lot you can do without a lot of money. What it takes is a little bit of imagination.

Senator BROOKE. These are all major items on the agenda at the conferences.

Mr. TREZZA. Yes.

LOCAL/STATE SUPPORT

Ms. MOORE. There is another point, Senator, I think the Congress would be interested in.

The pre-White House Conferences of the States have had fine acceptance in local communities.

For example, under the formula which the Commission adopted on the funds, each State gets a certain amount of money. According to the formula, Arkansas will get, $17,500.

We couldn't possibly do a study of the Arkansas libraries and come up with what we think we needed with that kind of money so we sought additional funds. We have already had about $27,500 given to us by a foundation in our State. The Governor has also supplemented the fund from his emergency money and promised to put in more money after July 1. We expect to do a complete year's study before our White House Conference with our own program which can then be related to the National Program Document.

We ask what can the States do for themselves? What can they do cooperatively? What will they have to have Federal help to do?

Senator BROOKE. Is this being done in other States?

Mr. TREZZA. Yes, in a similar way. Two-thirds of the participants to State conferences must be nonlibrary related. We are not interested in librarians and trustees whom we talk with all the time. One-third will represent that group. Two-thirds represent the citizens in terms of manufacturing, industry, professions, educators, students.

Senator BROOKE. And consumers?

Mr. TREZZA. And consumers. What is recommended is a series of regional meetings throughout the State, to obtain input from consumers. Their recommendations and ideas are then considered in the 2½-day conference.

It's a very interesting process. The budgets in the States range from as small as $20,000 to as much as $200,000, depending on the size of the State.

Our grant for any given State can be as low as $13,750 or as high as $25,000.

We determined the amount by a formula based on population and on the amount of money we had in the budget, for this purpose. About $1 million of our budget is going directly to the States as grants. Another $600,000 is being used to provide support services.

Senator BROOKE. Thank you, again.

ORIGIN OF WHITE HOUSE CONFERENCE

Ms. MOORE. Could I make a brief closing statement?

Senator BROOKE. Yes.

Ms. MOORE. I want to tell you that the Massachusetts people invited me up to kick off their White House Conference. I went and we kicked the thing off.

You will be, I think, interested personally in a little bit of history about the White House Conference. There was a man named Channing Bete, whom, I'm sure, you knew well, who first suggested that there be a White House Conference on Libraries in 1968. So the

White House Conference on Libraries was proposed long before the Commission was even set up.

You will also be interested to know, if you don't already, that Channing Bete's son has been named chairman of the White House Conference for Massachusetts.

Senator BROOKE. That I didn't know.

Ms. MOORE. They have a very fine committee in Massachusetts.

Senator BROOKE. I addressed the regional library association a few months ago.

Ms. MOORE. I thought they did as fine a job as they could do in selecting their committee to represent all sides.

SUBMITTED QUESTIONS

Senator BROOKE. Thank you. I have additional questions which I will submit to you for your response.

[CLERK'S NOTE.—The justification material for this account appears in the House fiscal year 1979 Labor-HEW Appropriations Subcommittee hearing record.]

[The following questions were not asked at the hearing, but were submitted to the department for response subsequent to the hearing:]

Questions Submitted by Senator Brooke

Question: Does the Commission provide the Committee with an independent view of the appropriate funding for library services each year?

Answer: The National Commission on Libraries and Information Science has not, in the past, presented the Committtee with an independent view of the appropriate funding for library services. The Commission has, however, frequently presented the Committee with supportive information and testimony concerning funding for library-related activities. For example, the Commission has presented testimony on the extension and revision of the Library Services and Construction Act to the Senate Education, Arts and Humanities Subcommittee and to the House Select Subcommittee on Education. We have also submitted statements in support of medical library network services and the Florence protocol.

Question: If not, could you do so?

Answer: The Commission could certainly, and, in fact, would be most pleased to provide both the Senate Committee on Appropriations and the House Committee on Appropriations, Labor-HEW Appropriations Subcommittee, with an independent view of appropriate funding for our country's library and information services. This is quite consistent with our statutory mandate (Public Law 91-345) to advise both the President and the Congress on policy relating to libraries and information science.

Question: In last year's Hearings, we discussed the need for improved coordination

among the Nation's library programs. What progress have you made during the past year toward improving this coordination?

Answer: Improving the coordination of library programs is not an area where one can expect dramatic breakthroughs. Better coordination is achieved in a series of small improvements, and there have been a number recently.

As you know, the Librarian of Congress is ex officio a member of the Commission. That, in itself, does not ensure coordination, but, in fact, the Library and the Commission have always had a close working relationship, not only at the top level, but at all levels of both staffs. We are members of the Library of Congress Network Advisory Committee and currently actively participating on two of its subcommittees. We are also members of the Federal Library Committee, which was established for the specific purpose of promoting cooperative activities among Federal libraries. It would not be too much of an exaggeration to say that hardly a day passes without some communication between the Library of Congress and the Commission staff.

Last year, with the approval of the Commissioner of Education, we worked out with the Director of the Office of Libraries and Learning Resources (OLLR) in the Office of Education whereby the Commission functions as an informal advisory body to OLLR. We have already had one such advisory session, and another is scheduled in March of this year. Another agency with whom we have frequent and close working relationships is the Division of Science Information (DSI) of the National Science Foudation (NSF). DSI, as well as the National Commission on New Technological Uses of Copyrighted Works (CONTU), provided substantial additional funding for the just completed study of library photocopying. DSI also participates with NCLIS and the Council

on Library Resources (CLR) in the support of the Committee for the Coordination of National Bibliographic Control (CCNBC) which promotes the use of common information elements in bibliographic records. In 1977, NCLIS and DSI jointly convened a task force to examine the organization and structure of American National Standards Committee Z39, which is the principal committee concerned with library/information standards. Still in the area of standards, another task force, jointly sponsored by NCLIS and the National Bureau of Standards (NBS), has just completed its development of computer-to-computer protocols for the exchange of library/information records among differing computer systems.

In addition to these fairly formal activities, we are in constant communication with all of the major Federal libraries and information centers. We are on their mailing lists, and they are on ours, but more to the point, their staff and NCLIS staff are in frequent telephone contact, so that they are constantly up to date on what we are doing and vice versa. We are now examining with the Federal Library Committee (FLC) the possibility of holding for Federal libraries, a pre-conference to the White House Conference on Library and Information Services, which would allow them to enunciate their needs before this national forum.

Question: What does the copyright assessment tell us about the impact of the new law upon libraries?

Answer: The study you refer to was actually a study of library photocopying. The final report of that study, Library Photocopying in the United States: With Implications for the Development of a Royalty Payment Mechanism, has just been released. Actual assessment of the impact of the new copyright law on libraries will

have to wait until they have been operating for some time under the new law, which just went into effect this year. However, the study will provide a baseline against which the impacts, if any, can be measured. On the basis of the study results--if I were to hazard a guess as to the impact--I would think it would be relatively minor for most libraries. The distribution of photocopying is highly skewed. For each type of library studied (public, academic, and special), and for each type of photocopying (patron, intrasystem and interlibrary loan) about one-fifth of the libraries do about three-quarters of the photocopying, and even then, the volume does not appear to be huge. For example, of 4.3 million copies of copyrighted serial articles made for interlibrary loan in 1976, only about one-half million would have required payment of royalty under the Commission on New Technological Uses of Copyrighted Works (CONTU) Guidelines.

Question: What other studies were completed during the year?

Answer: Other studies completed during the year include the study of the near-term role of the Library of Congress in the developing National Network, which identified strengths and weaknesses and recommended courses of action for most effective operation of this keystone of any national system. Another project, this one in cooperation with the Association for Educational Communications and Technology (AECT) has just been completed. The final report of this study of the status and requirements for bibliographic control of nonprint media indicates that there is an urgent need for standardization, since the only data element common to all formats of bibliographic records for nonprint media is the title.

Question: What studies are you currently working on?

Answer: The study of the methodology necessary to determine the role and characteristics of authority files (e.g., subject headings, author names, etc.) for the National Network was completed and formed the basis for our major current study, which is the second phase of this enormously complicated effort, which will continue, phase by phase, through 1978, 1979, and 1980.

Question: The Fiscal 1977 Supplemental Appropriations Bill, Public Law 95-25, contained $3.5 million for a White House Conference on Libraries. I have been told that some States are using other Federal program funds, such as funds appropriated for public libraries, to supply additional funding for the individual State conferences.

Answer: The $3.5 million for the White House Conference on Libraries and Information Services represents a reduction from the original request of $10 million. One of the major reasons given by the Congress for the reduction was their strong feeling that the Federal Government could not fully fund the cost of the State conferences. The justification for requiring that States share cost of State conferences was to heighten State's sense of involvement, and to contribute to the development of a sense of responsibility on the part of each State for its own conference. This represented a change from other White House Conferences, such as the one for the Handicapped and the recently-held National Conference for Women. In those cases, the State conferences were fully paid for from the Federal appropriation. In order to plan and conduct the State conferences, it became necessary for the States to obtain funds from sources other than the $1.5 million of the total $3.5 million appropriated. Two million is needed to fund the national conference itself, and to fund the staff operations for the over three year period. Each State,

depending on size and population, will receive a grant in the range of $13,750 to $25,000. They must supplement this amount with other funds, such as State funds, foundation grants, gifts, as well as, in some cases, Federal funding such as LSCA, NEH and the Comprehensive Employment Training Act.

Question: How many States are using Federal funds from education and other programs to supplement the funding of their State conferences?

Answer: As of now, five States have submitted information indicating the use of a combination of Federal, State, and grant funds; three States using Federal and State funds; and five States using only Federal funds.

Question: Why is it necessary for the States to use additional Federal funds to assist in financing these conferences?

Answer: The necessity for the States to use additional funds, including Federal, to assist in the financing of their conferences is, of course, based on the limited amount of funds being provided as a result of the $3.5 million appropriation. The cost of planning and conducting the State conferences involving a delegation--two-thirds of which represent the lay public--requires a budget depending on size of the State and its population of somewhere between $20,000 and $150,000. In many States, the State legislature meets on a biennial basis and has, therefore, not been in a position to supply State funds. For many other States, the budget for Fiscal Year 1978, the year during which the bulk of the conferences will be held, was adopted well before the appropriation for the White House Conference was enacted in the Spring of 1977. Thus, it was too late for those States to obtain funds from their State budgets. We are, of course, encouraging the

States to be creative in their search for additional funds, and suggesting to them that they can heighten local involvement by appealing to local civic organizations, for instance. Our evidence to date indicates a fair amount of success with this approach.

Question: Obviously, the White House Conference is your top-priority agenda item during fiscal 1979. However, funding for the conference is separate from your regular 1979 budget request. What major activities will you carry out with your 1979 funds?

Answer: In Fiscal Year 1979, the National Commission on Libraries and Information Science (NCLIS) will be heavily involved in task force activity. Although the Task Force on the Role of the School Library/Media Center should complete its work in early 1979 and publish its report by midyear, the Task Force on International Relations will continue deliberations through the entire year, and the Task Force on Monographic Access will extend into Fiscal Year 1980. In addition, very late in Fiscal Year 1978 or early in Fiscal Year 1979, task forces on both national information policy and the public/private interface will be assembled and given charges so that they will be in full operation throughout Fiscal Year 1979. However, perhaps the most crucial task force in some time is also scheduled to begin its work during Fiscal Year 1979. This is a Task Force on the Locus of Federal Responsibility and Governance of the Emerging Full-Service Network. Within the next few months we will have a basic research paper on the subject. This will be widely disseminated for comment and by the end of Fiscal Year 1978, we hope, in cooperation with a university, hold a meeting of experts representing all concerned constituencies and communities to develop a charge for the task force, so that it can

begin developing recommended solutions to the problems and approaches to implementation. This effort will undoubtedly extend through and beyond Fiscal Year 1979.

The Library of Congress study of authority files for the national network, jointly supported by the National Commission on Libraries and Information Science (NCLIS), the Council on Library Resources, and the Library of Congress, will be continuing with preliminary conclusions and indications of directions available. At least three more regional seminars for state library agency personnel will be scheduled.

We expect that the National Periodicals Access System will be in its start-up phase in 1979 and we will be supporting the Advisory Committee to that system, as well as working with the Library of Congress on the installation of the Periodicals Center. We will continue our support for the Committee for Coordination of National Bibliographic Control (CCNBC) and other standardization activities, such as the development of standards for bibliographic records for nonprint media.

Question: How do these plans differ from what the Commission did in Fiscal Year 1978?

Answer: The principal difference between our 1979 plans and our current 1978 efforts, aside from details of subject matter, is one of volume. While we expect to have three task forces in operation through much of 1978, we will have no less than five in operation during 1979. Similarly, while we project one regional management seminar for state library agency personnel in 1978, we project at least three for 1979. Many efforts will be in progress, but relatively few will come to completion and produce reports, which is reflected in

the reduction in the estimate of printing required.

Two differences from what we projected for 1978 should be noted. The proposed task force on library service to Native Americans has been replaced by a pre-conference to the White House Conference for Indians on or near reservations. Also, the Commission has decided that since one of the principal products of the White House Conference is expected to be a set of recommendations for legislation for coherent library programs. We will defer the development of major library legislation proposals until after the National Conference. We will, of course, continue to examine and prepare comments on any legislation affecting libraries and information services which may come before Congress.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

STATEMENT OF TIMOTHY F. CLEARY, CHAIRMAN

ACCOMPANIED BY:

LARRY HOSS, DIRECTOR, OFFICE OF FINANCIAL MANAGEMENT
DAVID N. HARRIS, CHIEF ADMINISTRATIVE LAW JUDGE
PAUL A. TENNY, ASSISTANT ADMINISTRATIVE LAW JUDGE

BUDGET REQUEST

Senator BROOKE. All right. Finally, we will hear testimony supporting the Occupational Safety and Health Review Commission's $7,658,000 budget request for fiscal year 1979. Last year's appropriation was $7,150,000.

The Review Commission is a quasi-judicial body that rules on employer appeals of penalties imposed by the Labor Department's Occupational Safety and Health Administration.

Here to testify for the first time is Commission Chairman Tim Cleary.

PREPARED STATEMENT

We congratulate you and look forward to working with you. You may introduce those with you. Again I ask you, if you have a statement, to summarize if you will.

INTRODUCTION OF ASSOCIATES

Mr. CLEARY. Thank you very much.

On my right is Chief Administrative Law Judge Davis H. Harris. Paul H. Tenny, my former chief legal counsel and assistant administrative law judge.

On my left is the Director of the Office of Financial Management and Budget, Mr. Larry Hoss.

BUDGET REQUEST

Mr. Chairman, I appreciate the opportunity to present for your consideration the fiscal year 1979 appropriation request in the amount of $7,658,000 for the Occupational Safety and Health Review Commission. This request represents an increase of $508,000 and no additional positions over the funds approved by the Congress for fiscal year 1978.

The details of the changes on funding requirements are provided in the submission before you, so I will briefly point out some of the significant parts of our submission as I regard them.

I am greatly encouraged by the performance of the Review Commission during the past fiscal year and the first quarter of fiscal year 1978.

The decision-writing capacity of the Commission's staff has shown significant improvement over the past year. This improvement has resulted in a reduction of cases awaiting Commission decisions from 806 cases on October 1, 1976, to 415 cases on October 1, 1977, a 49-percent reduction. This backlog has been further reduced by 19 percent to 339 cases at the end of the first quarter of fiscal year 1978.

Since my appointment as Chairman by the President on August 31, 1977, I have taken several steps which I strongly believe will result in a further reduction in the case backlog during the remainder of fiscal year 1978 and fiscal year 1979 while at the same time simplify the procedures for all parties to petition for review before the Commission.

These steps required the amending of several of the Commission's rules governing discretionary review which have been recently amended.

The effect of these amendments will be to expedite processing of abatement cases at all levels of the Commission regardless of which party initiated the case and to change the internal procedure within the Commission by which petitions for review will be reviewed.

This change will avoid the multiplicity of effort among Commission members' staffs that has been a common practice in the past.

We are also exploring the development of a procedure of simplified hearings to be used by the Commission's administrative law judges that should expedite many of the contested cases appearing before them.

While the present practices of the Commission no doubt provide for a fair and impartial hearing, there is not in all cases a realistic balance between the need for procedural due process with the need for swift adjudication as Congress contemplated.

Too often the work being done and alleged to be hazardous is completed before the adjudication process is completed.

Safety compliance must be timely. Safety adjudication should be timely to be most effective. We hope to make substantial progress on this by the end of fiscal year 1978.

These actions that I have briefly alluded to are designed to speed up the decisional process of cases before the administrative law judges and the Commission members so that potential dangers can be eliminated from the workplace as soon as possible, while at the same time providing speedy but fair proceedings.

We have recently revised and issued an easy-to-read guide to Commission procedures that explains and assists parties appearing before the Commission without the benefit of a lawyer.

This booklet provides step-by-step instructions for contesting OSHA job safety and health enforcement issues in the hearing and review process, and contains "how-to-do-it" forms.

It is my belief that justice is surely aided by participants being fully informed of their rights and responsibilities under the act and it is my hope that this guide will assist toward that end.

Wide distribution of the guide is planned for employers, employees, unions, trade associations, small-business people, and consumer groups.

During fiscal year 1978, we plan to publish in hard copy form decisions issued by the Commission. It is necessary for the Commission to do this because commercial publications which report Commission decisions, while doing a creditable job, do not always, in my opinion, furnish sufficient information to interested parties.

The Commission has no control over what decisions are published, and the present publications do not include the full administrative law judge's decision that is reviewed and referred to in a reviewing Commission decision.

The format for publication would be similar to that used by NLRB.

The Commission's publication, which will be available to interested parties on a subscription basis through GPO, will contain the Commission's decisions and corresponding administrative law judge decisions.

For the future I foresee the workload of the Commission being affected by several factors. Among them are OSHA's intent in the health standard's area.

At the present time the possible effects that OSHA's efforts in this area may have upon the Commission's workload is largely conjectural.

Based upon our limited experience, however, particularly with the coke oven cases, we anticipate longer and more costly adjudication periods because of more esoteric and complex issues.

I might say at this point, Mr. Chairman, this morning my chief judge advised that in the months of September through December there were some 302 health cases docketed. It is anticipated, for example, that those cases may average anywhere from 2 to 3 weeks for disposition for the hearing process alone.

I anticipate that the recently amended Commission rules will increase the volume of petitions for review before the Commission by virtue of the fact that we have now made it much easier and less expensive for small businessmen and unions to pursue their case through the full review process.

We are not requesting any additional positions for fiscal year 1979 over our present authorized staff. Although we anticipate an increased workload in the future for the Commission, it is my belief that the present staff is fully capable of absorbing that increase.

The changes we have made and plan to make, while probably resulting in an increased work level, will also provide the mechanism for present staff to absorb and process that increase.

Mr. Chairman, I believe that the Occupational Safety and Health Act is among the most advanced pieces of remedial legislation enacted by the Congress of the United States for the working men and women of this Nation and that it deals with a vital social need of life and limb in the workplace.

My staff and I are now ready to answer any questions you and the subcommittee may have.

NATIONAL PROGRAMS

Senator BROOKE. Thank you, Mr. Chairman. What are you doing to improve acceptance of occupational safety and health programs throughout the country? As you very well know, OSHA has come under serious and consistent attack, both from the floor of the Senate and the floor of the House. And, of course, as you go around the country, I am sure you are aware of the many, many allegations—an increasing number of allegations—from American business, particularly small business.

Mr. CLEARY. I think the education of the public—of businesspeople, labor unions, and employees—is within the authority of the Occupational Safety and Health Administration of the Labor Department. Nevertheless, I do through various speaking engagements seek to impress upon people the importance of healthy and safe working conditions.

Senator BROOKE. You do speak to employer groups; do you not?

Mr. CLEARY. Yes, I do. In fact, only yesterday I returned from the Denver area where I spoke to a group of general construction contractors explaining the work of the Commission.

I would like to make a comment that I make every opportunity I have, and I recently had the opportunity at the AFL convention in Boston. Personally, I believe much of the criticism of OSHA dealing with split toilet seats, "jiffy johns" in the farm fields and coat hooks in lavatory stalls misses the point of serious workplace hazards.

I would like to invite those critics to sit at my desk and review the cases crossing it. They would read about the workers who are crushed in the trench mishaps, the workers who are electrocuted because heavy equipment is operated too close to power lines, and the workers who are suffering from the effects of the introduction of carcinogens into the workplace.

I am saying there is more to OSHA than split toilet seats. And I would hope that Dr. Eula Bingham's recent proposal to revoke the "nitpicking" standards that have no real meaning would help to eliminate the ogre of OSHA that businesspeople see. The Review Commission does not have to hang its head when it comes to its record regarding small businesses. The record is there. We have decided matters before the Commission impartially and will continue to do so.

In fact, this morning, as a result of certain communications I have received from our own judges, I have instructed our chief judge to notify all our judges that any letters, critical or otherwise, should be forwarded to me.

I think we have to make not only Congress, but the public aware that the Commission is doing its job. Our judges are expert jurists and they consider all facets of a case.

QUALITY OF INSPECTOR PROGRAM

Senator BROOKE. But the chief complaint is not the quality of the judges, but the quality of the inspectors. Is there a sufficiently sound training program?

Mr. CLEARY. I don't know if I am in a position to answer that. OSHA inspectors are, of course, under the direction of the Occupa-

tional Safety and Health Administration of the Labor Department. However, as a former law enforcement officer, I know that any compliance officer has to use commonsense on the job. Now, it may well be that all these cause celebres of split toilet seats, and so forth, may have been avoided if the compliance officer had exercised a little better judgment. But by the same token, we all have a job to do in improving enforcement under the act.

As I said in Colorado yesterday, we all must stand together to improve the image of OSHA.

I will do everything I can to improve OSHA's image, to make suggestions where appropriate.

Senator BROOKE. You do review the work, in a sense, of the compliance officers, because when a case gets up——

Mr. CLEARY. That is correct.

Senator BROOKE [continuing]. Before your judges, for example, it was brought in initially by a compliance officer. So you do get an opportunity to make a judgment as to the quality of the Compliance officer, based on whether you are getting specious claims or specious cases that really fall because of the lack of evidence, when a judge is called upon to review them.

Mr. CLEARY. I would, of course—we are getting rapidly to the point in our lives, the life of the Commission, OSHA itself, where we can't rely on, well, we are inexperienced, we are going through a period of growing pains.

Certainly, there is need for improvement in terms of compliance officers. I don't know what the criteria were that were set for the hiring of compliance officers.

Certainly, there are cases we see where a compliance officer might have done more by way of gathering evidence. The Commission has attempted, for example, to, oh, hang out a flag, if you will.

That is perhaps not the best way to describe it. But, by way of our decisions, a case that comes immediately to mind is the Van Raalte case involving sewing machine guards. Now, there was no way in the world that the operators of those sewing machine guards could have been injured by the violation alleged, the failure to guard the knip points between the pulley and the belts. As I say, there was no way in the world that the operator of that machine could have received more than a pinched finger or even if the metal clip that holds the belt together, if it snapped off the most it would have caused was a scratch on the leg.

So the Commission described that type of situation as de minimis.

What we are really saying is that this is not the type of thing that ought to be cited. It is not the type of case that improves the image of OSHA.

By the same token, I have to say again, speaking as a former law enforcement officer, there are differing views of what, how law enforcement officers ought to do their jobs.

Judge TENNY. We have a recent Massachusetts case, head sailmakers, down at Marblehead involving a number of women engaged on a part-time basis in the sewing of sail canvas.

In that case, there was no practical way of guarding the machines, and nothing more serious than an injury requiring treatment with Band-Aids.

Senator BROOKE. Thank you. Mr. Chairman, you may not know it, but I have been and continue to be one of the strongest advocates of OSHA.

Day after day I fight the OSHA fight. It is an annual defensive action on the floor of the Senate, of course, and on the floor of the House as well.

So when I ask you these questions I want you to know that I am trying to give you an opportunity to respond to questions that I know are being asked not only by my colleagues, but by people all over the country. Asking if you are aware of the situation and if you are addressing it.

As you know, Congress increased the Federal Compliance Office in OSHA significantly in recent years. How have the increased number of OSHA inspectors affected the workload of the Review Commission?

Mr. CLEARY. Well, we anticipate that for fiscal year 1979, there will be some 75,000 inspections.

The ratio of contested cases to cited employers has risen significantly over the years. It is now for the first quarter of 1978, 8.58 percent.

Now, carry that—with that point in mind and that ratio in mind, we can anticipate that with the addition of additional inspectors, there will be that many more citations issued.

Consequently, there will be that many more cases contested before the Commission. We anticipate perhaps that a greater public awareness among the small business community, among the affected employees that more cases will be contested and I think the guide points out, for example, for the first time what does party status mean to unions and affected employees.

It means just what it says, full participation in the hearing process. I think as the Commission improves its image and the image of the Commission, certainly in its performance in adjudicatory functions has been a good image.

We have escaped relatively unscathed by any criticism of OSHA. We expect that there will be more and more cases contested. But certainly if we do nothing more than carry the ratio forward of 8.58 percent or thereabouts, then the addition of so many more inspectors will result in so many more citations and, consequently, so many more contested cases.

However, I believe in 1979 in spite of the anticipated increase we can handle the workload. The workload of the judges has improved. I am certainly confident that the procedures that we have implemented for the review process, before the Commission members has improved and I look forward to it improving more as I implement some further procedural changes that I intend to implement in the decision—in the review process and decisional process.

Senator BROOKE. Again, because of time constraints, I have just one further question, then I will submit additional questions to you for the record.

What impact has the OSHA appropriations bill language, eliminating penalties for nine or fewer nonserious violations, had on your workload?

Mr. CLEARY. I don't know if there are any statistics available to indicate that there has been any lessening of the workload. It is difficult to say.

I, of course, if the Chair would want my comments on penalties and what I think about penalties, of course, I am sort of ambivalent about them.

There is no question but that penalties are important. It is that old adage: It is not the money, it is the principle of the thing.

I do not really know if that bears true. But it is—to respond directly to your question, I am unable at this time.

I will attempt, if you wish, to make some kind of effort to obtain that kind of information——

Senator BROOKE. It would be helpful to us.

Mr. CLEARY. I certainly will do that.

Senator BROOKE. Well, Chairman Cleary, I again want to thank you and your associates for testifying.

I also want to say that I have very quickly scanned this guide published by the Occupational Safety and Health Review Commission. And I want to commend you and your Commission on what appears to be a very well thought out guide.

Mr. CLEARY. Thank you very much.

SUBMITTED QUESTIONS

Senator BROOKE. Thank you very much. I have additional questions which I will ask you to respond to for the record.

[CLERK'S NOTE.—The justification material for this account appears in the House fiscal year 1979 Labor-HEW Appropriations Subcommittee hearing record.]

[The following questions were not asked at the hearing, but were submitted to the department for response subsequent to the hearing:]

22-712 O - 78 - 7

Questions Submitted by Senator Brooke

QUESTION: DO YOU THINK THE ADMINISTRATION'S FOCUS ON ELIMINATING NIT-PICKING STANDARDS AND FINES WILL EVENTUALLY REDUCE THE REVIEW COMMISSION'S WORKLOAD?

ANSWER : It is not anticipated that there will be any significant reduction in the Commission's workload. Very few cases involving the so called nit-picking standards have been contested before the Commission over the past fiscal year and many of those that are contested are resolved by settlements prior to hearing, Elimination of the so called nit-picking standards should enable the inspectors' time to be more effectively utilized.

QUESTION: ARE YOU GETTING OMB APPROVAL FOR SUFFICIENT STAFF FOR THE REVIEW COMMISSION TO KEEP UP WITH WORK INCREASES?

ANSWER : Yes. The OMB has worked closely with the Commission in developing workload formulas that provide a good estimate of its staff needs to fulfill Agency functions.

QUESTION: WHAT IMPACT DOES YOUR DEGREE OF SUCCESS IN SETTLING CASES BEFORE THEY GO TO FULL HEARINGS HAVE ON YOUR BUDGET AND WORKLOAD?

ANSWER : Since a majority of the contested cases are settled prior to hearing, the effect on our budget request and caseload is significant. In developing the budget request consideration is given to the various stages in the Commission process at which cases are settled. Any substantial deviation from that settlement rate would have a significant impact on the level of the Commission's needs.

QUESTION: HAVE YOU HIRED THE FIVE NEW ADMINISTRATIVE LAW JUDGES APPROVED BY CONGRESS LAST YEAR?

ANSWER : The five new Administrative Law Judges approved by Congress for FY 1978 have not been hired at the present time. This is due in part to the fact that OSHA inspections and our resulting caseload had not increased to the level anticipated at the beginning of fiscal year 1978. Additionally, an increase in our ALJ productivity has enabled them to carry a greater caseload. However, caseload statistics for the first quarter of FY 1978 indicate that the caseload has increased from an average of 6.31 contests per 100 OSHA inspections in FY 1977 to an average of 8.58 contests per 100 OSHA inspections during the first quarter of FY 1978. If this trend continues, they will be filled as needed.

QUESTION: WHAT DOES YOUR LATEST DATA SHOW ABOUT HOW QUICKLY YOU PROCESS CASES, COMPARED WITH A YEAR AGO?

ANSWER : At the end of fiscal year 1976 and the Transition Quarter the average time for processing a case by the Commission was 526 days for those cases that proceeded through the full hearing and review process. During fiscal year 1977, this period was reduced to 518 days. A further reduction in this time period in fiscal year 1977 was stymied by (1) the presence of a number of health cases which significantly increased hearing period time from an average of 1 1/2 days to 6 weeks; (2) the dramatic increase in the number of cases directed for review during the first 3 quarters of fiscal year 1977, and (3) the absence of a third Commission member since April 27, 1977, which increased the workload of the present members. It should be noted that in spite of these factors, a 49% reduction in the backlog of cases before the Commission was accomplished during fiscal year

1977. The Chairman has set a 13 month time period goal for FY 1979 for the complete processing of a case before the Commission. Recent indications are that the time period as well as the backlog of cases before the Commission is decreasing.

QUESTION: DO YOU EXPECT TO IMPROVE CASE PROCESSING TIME DURING FISCAL YEAR 1979?

ANSWER : Yes. The Commission has taken several steps recently to improve the case processing time and by the beginning of fiscal year 1979, it is expected that these changes should be functional. The steps taken by the Commission involve the expediting of all abatement cases before the ALJ's and the Commission members. Additionally, a new procedure for seriatim review by the Commission members of petitions for discretionary review will enable their respective staffs to devote more time to processing decisions. However, while we will be reducing the processing time for the average case by the means discussed above and by the proposed adoption of simplified procedures, it should be noted that there is a possibility that the time for processing difficult health cases could very well increase because of the need for extensive discovery and expert testimony in this type case.

QUESTION: LAST YEAR, FORMER COMMISSIONER MORAN SUGGESTED THE COMMISSIONER JOBS BE ELIMINATED. DO YOU THINK THE REVIEW COMMISSION'S FUNCTION COULD BE CARRIED OUT JUST AS WELL SOLELY BY ADMINISTRATIVE LAW JUDGES?

ANSWER : Without review by the Commission members, there would be divergent opinions on the same or similar issues. The unfortunate situation of 44 Administrative Law Judges, each going in a different direction would inevitably exist. By interpreting the law and setting guidelines and policy for all Judges, the full Commission serves as a valuable instrument in development of a coherent and comprehensive national policy on safety and health issues.

The importance of the full Commission in setting national policy is recognized by the 3rd Circuit Court of Appeals in Keystone Roofing Co., v. O.S.H.R.C. 539 F.2nd 960 (3rd Cir. 1976).

QUESTION: WHAT CONTRIBUTIONS HAVE THE COMMISSIONERS MADE IN THE LAST YEAR TOWARD IMPROVING OCCUPATIONAL SAFETY AND HEALTH AND SAFETY APART FROM THE ADMINISTRATIVE LAW JUDGES?

ANSWER : During the past year, the Commissioners have made significant contributions toward improving occupational safety and health. They have developed a coherent policy on multi-employer cases involving the construction industry. Also, Commission decisions on de minimis cases seem to have played a part in the recent OSHA decision to eliminate many of the nit picking standards. The Commissioners have also acted to educate the public by publication of a Guide to Procedures of the Commission which is readily available. The Members have also provided technical assistance to Congressional Committees as requested.

SUBCOMMITTEE RECESS

The subcommittee will stand in recess until 10 a.m. tomorrow morning when related agency testimony will continue.

[Whereupon, at 12.20 p.m., Thursday, January 26, the subcommittee was recessed, to reconvene at 10 a.m, Friday, January 27.]

DEPARTMENTS OF LABOR AND HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1979

FRIDAY, JANUARY 27, 1978

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 10 a.m. in room S–128, the Capitol, Hon. Quentin N. Burdick presiding.

Present: Senator Burdick.

FEDERAL MEDIATION AND CONCILIATION SERVICE

STATEMENT OF WAYNE L. HORVITZ, DIRECTOR

ACCOMPANIED BY:

KENNETH E. MOFFETT, DEPUTY DIRECTOR
ROBERT P. GAJDYS, DIRECTOR OF ADMINISTRATION
LU DEWEY TANNER, DIRECTOR OF RESEARCH

BUDGET REQUEST

Senator BURDICK. The subcommittee will come to order.

This morning we will hear from four more related agencies under the jurisdiction of the Labor-HEW Appropriations Subcommittee.

First, we will hear from the Federal Mediation and Conciliation Service. The fiscal year 1979 budget request is $22,686,000, an increase of $221,000 over the comparable fiscal year 1978 appropriation.

The Federal Mediation Service is in the business of trying to resolve labor-management disputes, and has built a solid reputation.

Here to testify for the first time before our subcommittee is Director Wayne Horvitz.

INTRODUCTION OF ASSOCIATES

Please introduce your associates and proceed with your statement, Mr. Horvitz.

Mr. HORVITZ. Thank you, Senator.

On my left, Mr. Kenneth Moffett, Deputy Director. On my right, Mr. Robert Gajdys, Director of Administration.

I have a full statement, Senator, for the record, but I will proceed with a summary statement as requested.

Senator BURDICK. It would be appreciated.

MAJOR PROGRAM AREAS

Mr. HORVITZ. It is my pleasure to present to you the fiscal year 1979 appropriation request for the Federal Mediation and Conciliation Service. I would like to summarize what we are doing in four major program areas now and what we expect to do in fiscal year 1979.

DISPUTES

The first is disputes. We project an increase in both private and public sector dispute cases in fiscal year 1979. In fiscal year 1977, we closed 9,707 private sector joint meeting cases and 821 public sector joint meeting cases. These were the highest totals in both categories in the Service's history. In fiscal year 1979 we anticipate 10,700 private sector and 1,000 public sector cases.

TECHNICAL ASSISTANCE

We project a drop from the current rate of 1,400 cases a year to 1,100 in fiscal year 1979. This does not reflect less demand or less need for technical assistance. It simply means that with more dispute cases, technical assistance may decline.

ARBITRATION

Demands for arbitration services will continue to escalate. During fiscal year 1977, Federal Mediation and Conciliation Service submitted 26,103 panels to the parties. By fiscal year 1979, we anticipate the number of panels submitted will be 32,775.

MANAGEMENT AND ADMINISTRATION

We plan new activities, especially training, to increase the effectiveness of our mediators and our supporting staff.

It has been an active year for the Service and an active one for me, since taking office last spring.

Contract disputes in canning, telecommunications, longshoring, nonferrous mining, Hawaii sugar, iron ore negotiations, aerospace, and, late this fall and still continuing, coal.

Now we are involved in perhaps even more difficult negotiations in the coal industry. But negotiations are continuing. I've been working with the parties almost daily. And we will get an agreement.

BARGAINING OUTLOOK

However, when these are behind us, there will be no letup. Today's economic and business climate is putting the collective bargaining process to severe tests. Imports, inflation, competition, higher energy costs, environmental regulations—all are pushing up employers' operating costs.

Meanwhile workers are demanding higher wages to offset the effects of inflation in day-to-day life, while unemployment is having the effect of concentrating union bargaining programs on job security.

In addition to economic pressures and changing attitudes by both parties, fiscal year 1979 promises to be busy for another very simple reason: It is a heavy bargaining year. Trucking, rubber, and of course the auto industry, are just a few of the big contracts coming up for renegotiation.

But it's also a year in which 2,500 major construction industry contracts expire. Although construction negotiations have been running smoothly the last few years, this is historically a volatile industry in labor relations.

If the building expansion that seems now finally to be taking place continues, this could well be an area of major effort and major concern.

We also anticipate an increase in 1979 in public sector cases. I include the Federal sector as well when I speak of public sector. It is the fastest growing component in our caseload activity.

INCREASE IN FEDERAL SECTOR CASELOAD

Since fiscal year 1973, the number of such cases has tripled. The need for highly qualified mediators in this field is becoming more acute all the time.

To meet this need, we are stepping up training.

TECHNICAL ASSISTANCE

I have noted in the beginning that our technical assistance caseload might decline, and pointed out that this could happen because of increasing workloads in other areas. While the total number of technical assistance cases may drop, we will concentrate on selecting those cases which can be of most benefit to labor-management relations.

This is the approach we have adopted with our highly successful, but highly labor intensive, relations by objectives (RBO) program.

We utilize these programs in situations where labor-management relations have gotten so bad that strikes have become a routine order of business and health and well-being of the company and the union are in jeopardy.

I believe we can be more selective in all our technical assistance undertakings. In that way, although the numbers may go down, the overall beneficial impact of the program will not.

ACTIVITIES IN OTHER AREAS

In the statement that I have submitted for the record, I go into a number of program areas that I have not covered in this summary statement.

We are, for example, doing a number of things in the fields of labor-management cooperation, in the health care and the retail food industries.

We are also taking steps to improve our own personnel practices—both in hiring, especially qualified women and minorities,

and in training, so that the Service will be able to serve the parties more effectively.

FUNDING AND STAFFING

In summary, we are building up our ability to handle an increasing dispute caseload, a higher demand for arbitration services, and a continuing demand for technical assistance in fiscal year 1979 with about the same funds and the same staffing level that we have for fiscal year 1978.

[The statement and biographical sketches follow:]

STATEMENT OF WAYNE L. HORVITZ

Mr. Chairman and members of the Committee:

It is my pleasure to present to you the Fiscal Year 1979 appropriation for the Federal Mediation and Conciliation Service.

Let me begin by outlining for you what levels of activity we anticipate for the fiscal year in our major program areas:

1. We expect our dispute case assignments, in both the private and public sectors, to increase significantly from FY 1977 levels--which were at the highest point in the Service's history.

   Our private sector joint meeting cases closed, those in which mediators actively participate, will rise to 10,700 from 9,707 in FY 1977, and our public sector case closings will rise to 1,000 in FY 1979 from 821 in FY 1977.

2. Our total technical assistance caseload will show a slight decrease in FY 1979, to about 1,100 cases from just over 1,400 in FY 1977. More of the mediator's time will be spent on dispute case assignments in FY 1979.

3. Demands for arbitration services will continue to escalate. During FY 1977, FMCS submitted 26,103 panels to the parties, a record high and an increase of 18.2 percent over FY 1976. This will increase to an anticipated 32,775 in FY 1979.

4. In management and administration we plan a new series of activities designed to better equip our mediators and our support staff to serve the interests of the parties.

It has been an active first year. My first order of business was to preside over a two-month strike by the East and Gulf Coast Longshoremen. However, this stoppage was concluded without the resort to the traditional script for these dock strikes, which called for invocation of the Taft-Hartley Law's 80-day cooling off period, followed by a strike of even longer duration.

From there, the Service went immediately into coal industry negotiations and a strike which has been on since December 6. We are still actively involved in assisting the parties in their attempts to reach agreement.

Once that is behind us, however, I don't expect that we will remain idle. Today's economic and business climate is putting the collective bargaining process to some severe tests. A number of competitive pressures are affecting a broad range of industries. High among these pressures is the impact of foreign imports on the American market. At the same time, inflation is pushing up employers' operating costs, and consumers are resisting companies' attempts to pass along in higher prices their increased wage and materials costs.

In this conflict situation, employers are taking a tougher bargaining stance.

On the union side, the continuing rise of inflation and high unemployment is having the effect of concentrating union bargaining programs on improved wage protections and job security.

We expect another development to have an impact on the bargaining process also. In the past few months, there has been a noticeable hardening of relations between labor and management.

There are many factors contributing to this. The competitive pressures I have mentioned is one. Management now perceives unions as being weaker than in the past, because they are declining numerically in the private sector of the economy; their membership has dropped to just over 20 percent of the work force.

Seeing this, management to some degree is ready to test out the bargaining relationship to see what it will bear. There is the feeling among many employers that for many years they have been giving away far more at the bargaining table than they should, and that perhaps this is a good time to get it back.

In this climate, we expect our disputes caseload in both the private and public sectors to increase significantly in both FY 1978 and 1979.

Among the most demanding and time consuming of the Service's cases are those involving first contracts. Each year the Service is involved in about 2,000 of these. Because of the parties' inexperience in the techniques of collective bargaining, negotiations often are lengthy and likely to degenerate into strikes. The mediators must often act as an educator in these negotiations. FMCS estimates that the increase in organization by unions in the South and Southwest sections of the nation, and in the growing health care industry, will mean an increase in first contract negotiation situations.

The Service also has focused its attention on the conduct of collective bargaining in a number of industries critical to the economy and welfare of the nation. These include energy, health care, construction, food, and the public sector.

The Service targets these industries because they have an important impact on the economy. In FY 1979 the Service will intensify its contacts with these industries, and its involvement in contract negotiations. FMCS can then give priority to monitoring the progress of these negotiations for signs of possible trouble. Through early and active involvement by the Service, strikes in these critical industries can be avoided.

As you know, more than three years ago FMCS was given special responsibilities for mediating labor-management disputes in the health care industry. Our caseload in this sector is rising. It is a role we still are adjusting to in an effort to find ways to be more effective. For example, we are having problems with court interpretations of the law with respect to the time when a Board of Inquiry can be named in stalemated disputes. It is possible that we may have to seek a change in the law.

Last summer, we abolished the health care advisory committee both on the recommendation of the Office of Management and Budget and our own assessment that the committee was not fulfilling the function for which it was set up. Recently, however, we opened what we hope will be continuing discussions with the major unions and employers in the health care industry as to what mechanism might be most feasible for joint discussion of the problems in the industry.

In the food industry, FMCS has a mediator who is a permanent member of the Steering Committee of the Joint Labor-Management Committee of the Retail Food Industry. This Committee is actively involved in the prevention and settlement of labor-management disputes, and has as a chief goal the restructuring of collective bargaining in the industry.

During FY 1979, an estimated 2,500 contracts will expire in the construction industry. FMCS anticipates its mediators will be heavily involved in the bargaining process.

About 2.7 million of the 5 million workers employed in the construction industry are union members. However, the nonunion sector of the industry is becoming increasingly competitive and is making significant inroads into the jobs heretofore performed by the unionized crafts. This competition is forcing union negotiators in some cases to accept smaller wage increases or no increases at all. Changes in work rules, long a tightly-guarded province of construction unions, are being written into new agreements as the unionized trades seek to accommodate to the changing economic conditions and preserve their work jurisdiction.

A high volume of construction activity is expected in FY 1978 and 1979, with a shift from residential to nonresidential construction. The unionized trades have traditionally exercised greater job control in the nonresidential area. These circumstances may take some of the pressure off the unions to make further concessions on wages and work rules. But because contractors have been getting used to winning concessions, this development could be accompanied

by an increase in the number of the industry's work stoppages. It will certainly lead to harder bargaining.

To forestall this and to increase cooperation of labor and management in the industry and preserve existing collective bargaining relationships, FMCS is encouraging the establishment and continuation of labor-management committees that deal with the special problems of collective bargaining in this industry.

As you know, Executive Order 11491 establishing collective bargaining in the federal sector was signed in 1969, writing FMCS into that procedure. The federal sector is the fastest growing component of our program. It has tripled since FY 1973. The need for more highly qualified mediators in this field is becoming more acute all the time.

To make sure we are prepared to meet this need, we are going to step up the training of our mediators. We are bringing 36 mediators into Washington in mid-February for a week-long training workshop in federal sector collective bargaining. We have consulted with employers and unions in the federal sector to help us design this intensive training course.

Once these mediators go back into the field, they will be fed a constant stream of specially-prepared information on developments in the federal sector. This training process will be repeated for our entire staff.

The Service's technical assistance program includes a wide range of preventive-type activities designed to develop deeper understanding of the collective bargaining process by both parties prior to the expiration of the contract. By the end of the current fiscal year, the Service will have participated in and closed nearly 1,300 technical

assistance cases covering all sectors of the economy. TA activities include assistance in forming or participating in area and industry labor-management committees, conducting foreman-steward training programs, consultation and liaison work with company and union officials, and conduct of the new and highly successful "Relations by Objectives (RBO)" program developed by the Service.

In FY 1979, the Service will continue extending technical assistance to state and local governments that have passed or are in the process of passing legislation to institute or permit public employee bargaining. FMCS plans to help these governments by educating the parties in collective bargaining, mediation, arbitration, and techniques to promote harmonious relations. The aim will be to help states and localities to become self-sufficient in handling labor negotiations.

Because of the increase in requests for technical assistance, the Service has had to be more selective in its response. For example, the RBO program has been utilized only in situations where labor-management relationships have deteriorated to the point where each contract expiration has brought a lengthy and bitter strike. It is anticipated that requests for technical assistance will far exceed the level of manpower available, so this same selectivity will have to be extended to TA programs in FY 1979. In addition to making sure that new TA programs are carefully launched, the Service will keep up the quality of present programs.

The Service's public information and educational activities play an important role by providing the labor-management community and the public with a fuller understanding of its role. The long-range benefit from these

activities will be a further reduction in strikes and their duration.

In the United States, grievance arbitration--and more recently, interest arbitration--as an alternative to strikes has been a unique achievement of our industrial relations system. These approaches differ radically, both as concepts and practices from experiences in any of the industrialized nations. The impact of arbitration on the economy of the Nation, because it does serve as an important alternative to costly and lengthy work stoppages, is immeasurable. The growth in the use of arbitration has been enormous, and it will undoubtedly increase.

The use of FMCS arbitration services has risen rapidly. It is anticipated that by the end of the current fiscal year, the Service will submit about 28,500 panels of arbitrators to the parties, an increase of more than 100 percent since FY 1972. Comparable increases have occurred in the number of requests received, and the number of arbitrator appointments. All of this has placed a heavy strain on the arbitration services function. A key element in providing these services is time. It is essential that the Service is able to respond promptly to the parties. Maintenance of the roster of qualified arbitrators to hear these cases requires countless hours to make sure that the most current and accurate data for each arbitrator is reflected in his or her biographical sketch that is sent to the parties. This information is an important factor in the selection of arbitrators. In addition, the quality of the FMCS roster of arbitrators is under continual review to make sure that each member and potential member meets the highest

standards of ethical and professional qualifications and conduct.

The labor-management community continues to urge that the Service develop programs for developing new arbitrators and accelerating their acceptability by the parties. The role of FMCS in this process should be to assist the parties in developing programs that will achieve these goals.

FMCS plans to take a leadership role in this area, both because of our statutory responsibility and because we are in a unique position to supply expertise for these programs. The Service plans to assume a major role in the training and development of new arbitrators in FY 1979. In addition, the Service will seek to respond to the new demands being made on the arbitrator's expertise in the areas of interest arbitration, the public sector, and the health care industry. All of these require new kinds of expertise and training which have not been required of arbitrators before.

The Service's management and administrative support programs interact with the other program areas at the regional, field, and national office levels. Major support duties include personnel management, budget and financial management, management information services, administrative services, legal support services, research and development, planning and evaluation, employee training, and program effectiveness.

FMCS plans to initiate significant personnel improvements in FY 1979. An integrated employee training and development program will provide employees with specialized skills training in job-related areas. New programs for upgrading and upward mobility will be initiated to ensure that quali-

fied and capable employees can utilize their full potential and will remain with the Service.

The President's goals and objectives in recruiting and training of minorities, women, and the handicapped to fill jobs at all levels in the Service will be given increased emphasis in FY 1979. Although the Service has begun to make important advances in these areas, it recognizes that it has only begun to tap these resources. Our recruitment program will include a nationwide search for talent and expertise in all fields.

The Service's Office of the General Counsel in FY 1979 will be more involved in legislative and interagency programs. It will maintain close liaison with the Civil Service Commission so that FMCS is aware of the latest legal developments and changes in procedures in such areas as equal employment opportunity and other applicable program areas. The Office of the General Counsel will be more heavily involved in policy development, legal aspects of the arbitration program, and dispute mediation.

The Service's management in FY 1979 will plan and evaluate programs to measure the quality of the agency's accomplishments as well as the quantity.

Analysis of caseload trends will enable FMCS to determine more quickly and more accurately whether mediator staff should be redistributed, geographical boundaries should be changed, more technical assistance programs are needed, or specialized mediator training might be necessary to solve particular problems. Geographical changes in industry patterns will be studied for similar clues to how FMCS might better respond to changing needs, and critical industries

will be evaluated for data which will help mediators keep pace with collective bargaining developments.

In terms of employment, the Service's full-time employment ceiling for Fiscal Years 1977 and 1978 is limited to 540 permanent positions, as determined by the Office of Management and Budget. This is a reduction of 35 positions below the authorization in the appropriations for FY 1977 and 1978.

Although there is an anticipated increase in dispute and arbitration caseload during FY 1979, the Service believes that with additional effort and improved capability of mediators and support staff, the increased workload can be effectively handled without additional personnel. However, to compensate for the additional mediator time required to handle the increase in dispute workload, our technical assistance and public information workload may decrease in FY 1979. Therefore, the Service is requesting 540 permanent positions in FY 1979, the same as the FY 1978 level.

The appropriation request for FY 1979 is $22,686,000, an increase of only $221,000 over FY 1978 (this excludes the $533,000 supplemental appropriation to cover the pay increase effective October 1977). The $221,000 increase includes $11,000 for personnel compensation and $210,000 for supporting costs.

A comparative table for Fiscal Years 1978 and 1979 set forth on Page 1 of the justification material provides a summary of these estimates by object class. A more detailed analysis of staffing and financial requirements are presented beginning on Page 33.

Mr. Chairman, I will be happy to respond to any questions you may have.

Biographical Sketch

Wayne L. Horvitz
Director
Federal Mediation and Conciliation Service

Wayne L. Horvitz was nominated by President Carter and confirmed by the Senate as the ninth Director of the Federal Mediation and Conciliation Service. He was sworn in as Director on May 10, 1977.

As Director of the Service, Mr. Horvitz heads an independent agency established in 1947 by the Taft-Hartley Amendments to the National Labor Relations Act. The primary function of the Service is to assist labor and management in the resolution of their disputes by providing qualified mediators.

The Service also provides an arbitration referral service and contributes to improved labor-management relations and better understanding of the collective bargaining process through training programs and technical assistance activities.

The agency has approximately 550 employees; about 60 percent are mediators. The Service has offices in 80 major industrial cities across the Nation.

As Director of the Service, Mr. Horvitz is also the Government's chief mediator. Since taking office, he has been involved in negotiations in the telephone industry, the sugar industry in Hawaii, the longshore industry on the East and Gulf Coasts, and the retail food industry; and is currently involved in the coal industry negotiations here in Washington.

As head of the Service, he has emphasized professional training and development, recruitment practices to attract qualified women and minority members, longterm labor-management cooperative efforts, and a no-nonsense but noncoercive approach to dispute mediation.

This is in line with the Administration's philosophy that the parties themselves should resolve their differences, and that the Government's role should be one of help, but not interference.

Before becoming Director of the Service, Mr. Horvitz was the Chairman of the Joint Labor-Management Committee of the Retail Food Industry. This committee, funded by contributions from the major unions and major supermarket chains in the retail food industry, works vigorously to solve problems affecting the industry. During this time he also served as a member of the National Commission on Productivity and Work Quality.

From 1969 to 1974, Mr. Horvitz was an independent arbitrator, mediator, and a consultant on labor-management, legislative and public affairs in Washington. He served as a Public Member, Vice Chairman and Chairman of the

Food Industry Tripartite Wage and Salary Committee of the Cost of Living Council in 1973 and 1974.

Before becoming involved in public affairs, Mr. Horvitz was Director and subsequently Vice President of Industrial Relations for the Matson Navigation Company of San Francisco from 1960 to 1967. From 1967 to 1969, he was the firm's Vice President for Government Liaison.

Mr. Horvitz has been an assistant professor at Arizona State, a founding partner of Western Management Consultants, the Associate Director of Personnel and Labor Relations for the General Cable Corporation of New York and a private arbitrator.

Born October 8, 1920 in Chicago, he received his bachelor's degree from Bard College, Columbia University, in 1942. He was an Alfred P. Sloan Fellow at the Massachusetts Institute of Technology, earning a Master of Science degree in 1953.

During World War II, he served in the U.S. Army in North Africa and Italy.

January 1978

Biographical Sketch

Kenneth E. Moffett
Deputy Director
Federal Mediation and Conciliation Service

Kenneth E. Moffett was appointed Deputy Director of the Federal Mediation and Conciliation Service on June 2, 1977.

He was appointed Director of Mediation Services of FMCS in 1972, and in this position Moffett directed the mediation of labor relations disputes in the private, public and federal sectors.

In 1969, former director J. Curtis Counts designated Moffett as his Special Assistant. During this period, Father Leo C. Brown, S.J., Chairman of the Atomic Energy Labor-Management Relations Panel, named Moffett executive secretary of the panel and he continues to serve in this capacity.

He was appointed a trouble-shooter for the Service in 1967, mediating disputes of national significance out of the Washington, D.C. national office.

Commissioned a mediator with FMCS in 1961, Moffett served in Washington, D.C., for a year and in Cleveland, Ohio, for five years.

From 1957 to 1961, he served as an International Representative for District 50, United Mine Workers of America.

Moffett was born on September 11, 1931, in Lykens, Pennsylvania. He served in the U. S. Navy. Following this service, he attended the University of Maryland, and graduated in 1958. He is a member of the Society of Professionals in Dispute Resolution, and held the office of president for the 1975-1976 term.

Biographical Sketch

Robert P. Gajdys
Director, Office of Administration

Federal Mediation and Conciliation Service

Mr. Gajdys has been a career government employee for over two decades. Before being appointed Director, Office of Administration in August, 1976, he served as Deputy Director, Office of Program Development and Accountability at the Labor Department. Prior to this time he spent six years moving through a series of administrative and management positions in the Department of the Interior and its Bureau of Indian Affairs including the position of Deputy Director of Indian and Territorial Development for the Department. For several years he was a Senior Personnel Specialist for the U.S. Civil Service Commission on a Presidential Task Force.

In two separate years he received the Interior Department's outstanding performance award. He was also nominated twice for the Rockefeller Public Careers Award as one of the Nation's top 10 Federal civil servants. He was also the recipient of the Department of Army's Certificate of Merit.

Mr. Gajdys has a bachelor of science degree with honors from George Washington University, Washington, D.C., with a major in business administration. He has also attended the University of Scranton, Scranton, Pa., and Siena College, Albany, New York. He worked as a management advisor for a retail firm at Schenectady, New York, before becoming a government employee and served as a Personnel Sergeant in the U.S. Army in Germany.

He is of American Indian Ancestry and the father of eight children. He resides in Reston, Virginia. His birth date is June 18, 1938.

1978–79 COLLECTIVE BARGAINING OUTLOOK

Senator BURDICK. Do either of your associates care to say anything?

Mr. MOFFETT. No, we will wait, Mr. Chairman.

Mr. GAJDYS. No comments, Mr. Chairman.

Senator BURDICK. 1978 is described as a light year for collective bargaining but you don't seem to agree with that. Past forecasts of this sort have been often called excessively pessimistic. As you look to the upcoming months what do you see as the main potential trouble spots?

Mr. HORVITZ. I think in the immediate months ahead which are not covered by fiscal year 1979 we are going to have some very serious problems in the health care industry and some very serious problems probably with the postal negotiations on the Federal level.

Although it is a light year in the sense that we normally use that term to describe the fact that the pacesetters or as some people call them, the heavy hitters, are not up to bat.

In fiscal year 1979 the heavy hitters are up to bat. Those are the pattern setters, and the pacesetters. Those are the ones that I referred to particularly in auto, in steel, and most importantly, I think the master freight negotiations in the trucking industry.

If you look back on the past, the last contract that was negotiated in master freight essentially set the wage patterns for many, many industries around the country, and that repeats in March 1979.

Senator BURDICK. For the most part, are they 3-year contracts?

Mr. HORVITZ. For the most part, 3-year contracts. That will be of increasing concern to the administration because of the impact on inflation many of these settlements have had.

This year in June we have west coast longshore which I hope will not be as troublesome as east coast longshore and we have all the maritime unions on both coasts that will be up to bat and the usual number of construction contracts.

RELATIONS BETWEEN FMCS AND DEPARTMENT OF LABOR

Senator BURDICK. In the past relations between the Mediation Service and Department of Labor, particularly Secretary of Labor, has not always been a happy one.

There is a temptation on the part of the Labor Secretary, so it seems, to intervene in labor-management disputes which are the province of the Mediation Service.

How are your relations?

Mr. HORVITZ. Well, excellent is the only way I can describe it. Before I took office, Secretary Marshall and I had a long discussion about this problem. He has discussed it a number of times with the President.

The policy has been one of basically that the voluntary labor-management relationships which exist in our economy should be encouraged.

There should be a minimum amount of government intervention in disputes unless there are very serious questions affecting the national health and welfare of the economy.

Now by a minimum amount of government regulation, or government intervention, we mean except for the Federal Mediation Service. The mediation process is a part of the voluntary process.

And I think Secretary Marshall has been most supportive of me.

In fact, I am tempted at the moment to ask him if he wouldn't come over and help me with the coal negotiations. I have been at it day and night for a long time.

But basically that is our policy and that is the policy we are pursuing.

STATE OF COLLECTIVE BARGAINING

Senator BURDICK. Whenever there is a period of labor-management unrest or there is a particularly sticky strike in progress, a number of articles appear in speeches made to the effect that a collective bargaining appears to be on its last legs, that it is outmoded, no longer capable of coping with today's labor-management problems.

Do you go along with this school of thought concerning the institution of collective bargaining?

Mr. HORVITZ. Well, I cannot. I think collective bargaining is in troubled times. But it is cyclical.

The structure of collective bargaining is having trouble adjusting to new kinds of problems with which the economy is dealing.

Labor unions are not as well regarded by the public as they were some few years ago. But my sense of that is that these things go in cycles, and the process is sound.

I can give you one quick illustration. I have seen some figures on our own service, say perhaps 20,000 cases a year in which we are mandated to track.

Perhaps we get into, in some measure, 9,000 of those on an active basis. Of those 9,000 I would venture to guess that 95 percent of them are settled without a strike and you never hear about them.

It seems to me that that is the answer. Sure, when you read about the longshore negotiations, you read about the coal negotiations, you think to yourself, my good Lord, what has happened to the process?

But the 9,000 cases that are settled, often with the help of a mediator and then many more that we do not know about that are settled without any help at all, are the testimony that you really have of the fact that the process is sound underneath and the problems will be met, better met, I think, by that process than any other.

USE OF ARBITRATION

Senator BURDICK. The use of the arbitration process in settlement of labor-management disputes appears to be growing rapidly in popularity.

One of the functions of the Service is to maintain a roster of qualified arbitrators whose names can be submitted to the parties on their request for the adjudication of disputes.

First, how is the process working? Are there enough arbitrators?

Mr. HORVITZ. The process is working better than it was at the time I came with the Service. I don't say there is a direct relationship between those two things.

We are meeting the demand much more rapidly than we were, on getting the names of arbitrators out to the parties after we receive their requests. This is a crucial thing in arbitration service, because the thing that matters in arbitration is to get an arbitrator, to get a decision, and get it over and done with and not have it fester, particularly at the plant level.

TRAINING NEW ARBITRATORS

The thing that we are not doing well, and that we are addressing ourselves to at this time, is the training of new arbitrators. There is a demand for new arbitrators and there have not been really sufficient ways of developing, on a systematic basis, qualified people to do labor arbitration.

I have asked our director of arbitration services to devote a good portion of his time this year, and I hope in the coming years, too, to that particular area.

I think the servicing of arbitration requests can be handled routinely and efficiently. But the programs that are needed to get people qualified and more importantly, to get them accepted by labor and management, have floundered in the past.

I think we can do something about that. We can help others to do something about that. We will do it.

HEALTH CARE AMENDMENTS TO NLRA

Senator BURDICK. More than 3 years ago Congress enacted some amendments to the National Labor Relations Act which placed nonprofit losses under the jurisdiction of the National Labor Relations Board and provided for mediation of contract disputes in this industry for the Federal Mediation and Conciliation Service.

How are these amendments working in terms of your responsibilities for administering the act?

Mr. HORVITZ. Well, there are a number of problems with the health care amendments.

Incidentally, I might mention that the Labor Department has contracted with us to do a study on the effectiveness of the health care amendments, and that that study is now completed and Lu Tanner, in charge of that study, has submitted it I think to the Labor Department.

Not yet?

Mrs. TANNER. It will be within the next few weeks. With minor revisions.

Mr. HORVITZ. That study which has been an intensive year-long study, at least a year or more, will be submitted to the Labor Department shortly.

It is a study which goes to the heart of your question. As to our role in the amendments, we have a number of procedural problems with the appointment of boards of inquiry, with the appointments of factfinders, with the questions of at what level and at what point a mediator should be involved.

Some of these are matters which they are learning through experience. The health care industry is really a young industry in terms of organization. They are learning about the process of collective bargaining, really.

I think that we are trying to be of assistance in that area, but there are some sections of the law, and I would rather not comment on which ones at the moment, which I think have tended to impede the mediation process.

What we have tried to do is administer those sections of law and give the maximum attention to mediation and minimum attention to the other solutions that are provided in the law in the hopes that the parties would settle the matters for themselves.

There are some—there have been some legal questions involved which are in the courts with respect to how the law is administered.

I think at some point, Senator, when we have completed our own analysis of the study which our director of research has done, and we have had a chance to look back at our own experience, we may in fact propose some amendments to that legislation.

But we want to be sure before we ask for something to be changed that it is going to make it better.

From the basis of our experience so far, we think we know the areas that have to be strengthened, and if that requires a legislative change, we would come in and suggest that.

Senator BURDICK. When will the study be completed?

Mr. HORVITZ. The study is completed, but it has not been delivered to the Labor Department as yet and we are not free to talk about it.

Senator BURDICK. How long will it take to be delivered, evaluated, et cetera?

Mr. HORVITZ. We are evaluating it right now for our own purpose.

Mrs. Tanner, can you say when you expect to deliver it?

Mrs. TANNER. Yes; I would expect——

Mr. HORVITZ. In a truck.

Mrs. TANNER. It is a voluminous document. It should be completed and finalized and ready to be delivered to the Labor Department within the next few weeks.

We have gone over it, and it requires some minor revisions and corrections in English, proofreading, that kind of thing.

Senator BURDICK. My question is, Are there going to be some amendments that we will be able to reach in this session of Congress?

Mr. HORVITZ. It may be possible.

QUESTIONS SUBMITTED BY SENATOR BURDICK

Senator BURDICK. Well, I have some other questions but I think for the purpose of getting through this morning, would you mind answering them for the record?

Mr. HORWITZ. Not at all.

Senator BURDICK. With that I thank you very much.

Mr. HORVITZ. Thank you, Senator.

[CLERK'S NOTE.—The justification material for this account appears in the House fiscal year 1979 Labor-HEW Appropriations Subcommittee hearing record.]

[The following questions were not asked at the hearing, but were submitted to the Department for responses subsequent to the hearing:]

SENATOR BURDICK'S QUESTIONS

QUESTIONS AND ANSWERS SUBMITTED
FOR THE RECORD

Staffing-Increased Workload

Question: In last year's budget justification, you requested and Congress provided 575 full-time positions. This budget calls for a staffing level of 540. At the same time, the projections you have given us point to a sharply increased workload.

How do you propose to handle greater increases in your workload with 35 fewer positions?

Answer: Although there is an anticipated increase in dispute and arbitration caseload during FY 1979, the Service believes that, with additional effort and improved capability of mediator and support staff, the increased workload can be effectively handled without the additional personnel. However, to compensate for the additional mediator time required to handle the increase in dispute workload, our technical assistance and public information workload may decrease in FY 1979.

Mediation of Grievance Disputes

Question: It is often said that a good grievance procedure is the heart of the collective bargaining agreement. In many instances today, however, the grievance mechanisms don't seem to be working properly and this is the cause of a great deal of friction.

Do you think there is a role for the mediation process in easing these problems?

Answer: Yes. In fact, the Federal Mediation and Conciliation Service has for some time mediated grievances which have fallen into the category of last-resort and exceptional. These were grievances in which arbitration was not included in the final step of settlement and involved industries in which work stoppages could have had a severe impact on the local economy. The Service has found mediation to be an effective means of resolving grievances in this category. We are currently investigating application of mediation to other grievance situations. In addition to the actual mediation of grievances, the Service conducts training programs designed to improve the grievance administration skills of the parties in several industries. Our training activities in the coal industry, designed to help the industry improve its grievance resolution system, are illustrative of these programs.

Labor-Management Committees

Question: Before your appointment as Director of the Service, you were the neutral Chairman of the Joint Labor-Management Committee of the Retail Food Industry. It appears this Committee has enjoyed success in grappling with some of the longer-range labor-management problems in the supermarket industry.

(a) Do you see a broader role for these types of joint bodies where labor and management can meet and try to talk out their problems?

(b) What role for the Service do you see in encouraging the formation of these committees?

Answer: (a) Yes. Numerous external influences such as energy supplies, import competition, and growing Government regulation are creating a labor relations climate in which problems are more effectively attacked through joint rather than adversary approaches. There is a growing body of common problems and objectives which lend themselves to joint solution. These committees are being formed on a company, geographical, and industry basis.

(b) For the past two years, the Service has held conferences of community joint labor-management committees. The attendance at these conferences and the agenda of subjects discussed have demonstrated the growing interest in this concept and provided evidence of its effectiveness. In addition, mediators at the local level are active in developing company and community labor-management committees. An example of the latter is the one recently established in Evansville, Indiana. Also, the Service has helped revitalize and maintain community joint labor-management committees in Pudacah, Kentucky, and Southbend/Mishawaka, Indiana.

The Service is also cooperating with the Department of Labor in developing community labor-management committees in the construction industry. These are being developed in Chicago, Kansas City, and San Francisco.

Coal Negotiations

Question: The strike between the United Mine Workers of America and the Bituminous Coal Operators Association has been going on since December 6, 1977.

Can you give us some idea of where those negotiations stand, and how much longer you expect the strike to continue?

Answer: The Federal Mediation and Conciliation Service has held countless meetings with the parties to this dispute over the last several months in anticipation of the problems with which we are currently involved. The issues have been narrowed from approximately 120 to approximately six noneconomic and approximately 12 economic. There have been two tentative settlements. However, one was rejected by the United Mine Worker's bargaining council, and the other by a vote of the union's membership. Invocation of the Taft-Hartley law's 80-day cooling off period is being contemplated. Prospects for the resumption of full production are, at this time, uncertain.

NATIONAL LABOR RELATIONS BOARD

STATEMENT OF JOHN H. FANNING, CHAIRMAN

ACCOMPANIED BY:

JOHN S. IRVING, GENERAL COUNSEL
JOHN E. HIGGINS, JR., DEPUTY GENERAL COUNSEL
JOSEPH E. DE SIO, ASSOCIATE GENERAL COUNSEL
WILLIAM LUBBERS, SOLICITOR
ROBERT VOLGER, ACTING EXECUTIVE SECRETARY
THOMAS W. KESSEL, CHIEF ADMINISTRATIVE LAW JUDGE
ERNEST RUSSELL, DIRECTOR, DIVISION OF ADMINISTRATION
LEE D. VINCENT, COMPTROLLER

BUDGET REQUEST

Senator BURDICK. Next to testify on fiscal year 1979 appropriations requests is the National Labor Relations Board.

The budget proposes $100,467,000, an increase of $7,959,000 over last year's comparable level of $92,508,000.

PREPARED STATEMENTS

I see we have lengthy prepared statements from both Chairman Fanning and General Counsel Irving which we will put in the record.

[The statements follow:]

22-712 O - 78 - 9

STATEMENT OF JOHN H. FANNING, CHAIRMAN, NATIONAL LABOR RELATIONS BOARD

Mr. Chairman and distinguished members of the Subcommittee: I appreciate the opportunity to appear before you in support of the budget request for the National Labor Relations Board for Fiscal Year 1979.

As you know, we have already submitted to you a detailed written justification. But, with your permission, I would like to touch briefly on some of the significant highlights of that justification.

Our Fiscal Year 1979 fund request is for an appropriation of $100,467,000. This is an increase over the total appropriation plus pay act supplemental funds appropriated for Fiscal Year 1978 of $7,959,000.

As proud as I am to appear before you for the first time as Chairman I am not happy with the fact that this is the NLRB's first 100 million dollar budget request. Yet, I have carefully reviewed the figures you have before you today and if this agency is to cope successfully with the anticipated record high workload in Fiscal Year 1979, then this 100 million dollar plus budget request and the people and resources it will fund are essential.

UNFAIR LABOR PRACTICE (ULP) AND REPRESENTATION (R) CASE WORKLOAD

Fiscal Year 1977 unfair labor practice case intake exceeded the intake for the same 12 months of the previous year by 8.1%. In 1978 we expect a total of 56,939 cases. We presently are receiving more than 1,000 new cases every week. This is a total case increase for 1978 of more than 7.5% over 1977 and 14+% more than for the same 12 months of 1976. In 1979 total unfair labor practice and representation case intake is likely to pass 61,000, up another 7.1% for a total increase of over 22% since the 12 month period that ended in September 1976. Another perspective on this dramatic case increase is to consider that the leap from 40,000 total cases to over 50,000 total cases took from 1972 to 1977. The same 10,000 plus increase in total case intake, it now appears certain, will occur in only the two years from 1977 to 1979.

I have been with the NLRB as you know for over 20 years, yet I have no pat explanations for the steady, considerable growth in our work.

As you know, all of the charges and petitions filed with us for resolution are filed voluntarily. This Agency initiates no workload of its own.

EMPLOYMENT

Our detailed written justification describes a highlight I think it is essential to emphasize. It is that although total case intake will have increased from 1970 through 1979 at a compound rate of 6.9% a year, total agency employment will have increased at a compound rate of only 3.6% a year. Our 1979 request includes funds for about 131 staff-years of employment more than we will use in 1978.

We believe our justifications show that the NLRB is coping and coping successfully with our large and increasing case intake. In spite of the intake increases, total cases pending before the Agency were reduced from 19,173 to 18,208 during Fiscal Year 1977. We will continue, with your assistance, in our effort to serve the public and use wisely the resources entrusted to us.

Before I discuss further details I would like to review briefly the NLRB's budgeting methods--how we develped this request for 131 more staff-years of employment.

NLRB'S BUDGETING METHODS

I want to make as clear as possible that our budget has a highly objective base and is held out by the Office of Management and Budget as a model of "how to do it". There are three major components of our budget. They are:

(1) the estimated number of cases to be filed, by type;

(2) the estimated percentage of cases which will be withdrawn, dismissed, settled, and litigated, based on historical experience;

(3) the productivity rates of our professional employees.

Intake

First, as to intake, all of our Regional Directors go to a considerable effort to estimate future trends affecting case filings in their respective areas. For most recent years our best estimates have been conservative and actual filings have exceeded our estimates. 1973 is the only post-World War II year in which we had a decline in unfair labor practice cases filed.

Settlements and the Disposition Pattern

The General Counsel and I regularly stress the importance of settlements in unfair labor practice cases, not only because avoidance of litigation saves both the Government and the parties a lot of money, but because we believe settlements can truly effectuate the policies of the Act by bringing about better day-to-day collective bargaining relationships.

You are most knowledgeable on the operations of the NLRB, but you may not be aware that if our settlement rate, as a percentage of meritorious unfair labor practice cases, drops just one percentage point, the cost of litigating those additional cases by 1979 will be well over $500,000. Our high rate of settlements does not come about as a result of good luck. It is the result of hard work, and for that we hire the best people and give them the training and time to invest in obtaining settlements. A good settlement rate, like good luck, favors the well-prepared, and we constantly train our people to conduct a thorough investigation and to prepare professionally for each settlement negotiation. It is time well invested, and the quick resolution of these cases pays off in money saved by the NLRB and in labor peace. We frequently reemphasize that settlements must remain the top concern of the professional employees in our regional offices, but the settlement rate, as well as intake, can change adversely for reasons beyond our control or our ability to forecast. During 1977 the overall settlement rate for unfair labor practice cases was maintained at 81.5 percent, yielding a record number of agreements. Also, in representation cases, at least three out of four are resolved without a hearing by means of an election agreement. The General Counsel's statement deals with this more fully.

Productivity

Having estimated the amounts of case intake, we can then predict, according to the normal disposition pattern, the number of cases that will flow through to each stage of our case handling pipeline. We have a productivity rate for nearly every type of case work, which we then use to compute our staff-power needs. This provides a solid foundation upon which to compute fund requirements for the Agency.

BOARD MEMBERS' STAFF

Dealing strictly for the moment with the Board side, as we call it --the General Counsel will comment on his separate responsibilities--it looks to us as though the Board will be faced with the sizable task of deciding approximately 1,242 contested unfair labor practice cases in 1978 and about 1,416 in 1979. In 1977 we decided 1,127 unfair labor practice cases which was a new record and slightly exceeded our budget goal. We will decide about 850 representation cases in 1978 and 905 in 1979. The Board decided 721 election cases in 1977.

In addition to the contested election cases in which the Board issued a decision in 1977 the Board also ruled on 956 other appeals and requests for review of decisions by the Regional Directors. This workload is also increasing each year and is expected to rise to 1,199 by 1979. It is our best judgement, that we can handle the increases we foresee with an increase of only 3.9 professional staff-years and about 5.7 clerical staff-years of employment. This is possible because of significant new productivity increases that we are committed to achieve by Fiscal Year 1979. I am pleased to note that the Board achieved its record 1977 results with over an 8% increase in productivity in handling ULP contested decisions compared to the same 12 months of 1976.

ADMINISTRATIVE LAW JUDGES

Our Administrative Law Judges have also continued to make significant progress in 1977, and I am proud of their accomplishments under the leadership of Chief Judge Tom Kessel, who is with me this morning. They issued 1,238 decisions, up 9% over the same 12 months of 1976. This accomplishment was also accompanied by a noteworthy productivity increase. The Judges closed 1,402 hearings, up almost 100 over the same 12 months of 1976 and again with an improvement in productivity. These achievements, however, are overshadowed by our need to obtain additional qualified Administrative Law Judges to deal with an increasing backlog of cases pending trial. At the end of Fiscal Year 1977 there were nearly 1,300 cases pending trial compared to 691 in June 1975, and 933 in June 1976. This trend must be arrested or the adverse consequences to the capacity of this Agency to en-

courage the early settlement of labor disputes, to serve the American public, and to maintain effective cost controls will be quite serious.

We are anxiously waiting for the Senate to take up H.R. 6975 which would increase the number of Administrative Law Judges by a total of 100, of which NLRB expects to obtain about 30. The funding interruptions related to the abortion issue and the resultant cancellation of previously scheduled hearings along with the continued shortage of qualified Judges have now pushed cases pending a hearing to a level which is unacceptable if we are to provide the service to the public which we would like to provide and which the statute requires of us. The doubling of the trial backlog in two years has been accompanied by an increase in the median time from complaint to Judge's decision from 127 days in Fiscal Year 1975 to 203 days in Fiscal Year 1977. This is the most significant problem the Agency has.

CHAIRMAN'S TASK FORCE ON THE NLRB

The Task Force has just issued its final report which I am sending separately to the committee. The accomplishments of the Task Force have been extremely valuable and are too numerous to attempt to state here, but I would be pleased to comment on specific aspects of interest to the committee, now, or later, in writing.

CONCLUSION

We believe we utilized the funds appropriated by the Congress in an economic and efficient manner. We have improved the performance of the Agency whenever possible and we plegde we will continue to do so. I repectfully submit that to maintain our performance on a caseload which will soon be in excess of 61,000 per year, the NLRB will need the entire amount of funds and employment that we have requested. You have always been fair to us in reviewing our budget requests. As the new chairman of the National Labor Relations Board, I ask only that same fair consideration again this year.

That, then, is an overview of our budget and some of the most important Agencywide matters. I leave to our General Counsel, John S. Irving, any further comments he may wish to make about our intake increases and the budget and performance matters which come under his jurisdiction.

I would be happy to answer any questions you may have.

STATEMENT OF JOHN S. IRVING, GENERAL COUNSEL

I thank the Committee for this opportunity to appear in behalf of the National Labor Relations Board in support of its budget request for Fiscal Year 1979.

The Agency request for Fiscal Year 1979 is $100,467,000--an increase of $7,959,000 or 8.6% over the total of the appropriation plus pay act supplemental funds appropriated for Fiscal Year 1978. These funds will provide an average staff of 3,064.6 during Fiscal Year 1979, an increase of 130.7 staff-years over the 2,933.9 staff-years estimated for Fiscal Year 1978.

In the discussion which follows, I have attempted to set forth the responsibilities of the Office of the General Counsel, the problems which we faced in 1977, the accomplishments in 1977, the challenges we are currently facing, and the plans we have for 1979.

RESPONSIBILITIES OF THE OFFICE OF THE GENERAL COUNSEL

As you know, the National Labor Relations Act as amended (29 U.S.C. 141-167) provides that "the General Counsel shall exercise general supervision over all attorneys employed by the Board (other than Administrative Law Judges and Legal Assistants to Board Members) and over the officers and employees in the Regional Offices. He shall have final authority, on behalf of the Board, in respect of the investigation of charges and issuance of complaints under Section 10, and in respect of the prosecution of such complaints before the Board, and shall have such other duties as the Board may prescribe. . ."

As a result of this statutory authority and the authority delegated to the General Counsel by the Board under the statute, the General Counsel is responsible for the operation of the Agency's 32 Regional Offices, for the supervision of all court litigation before and after Board decision, and for the supervision of the Agency's Division of Administration.

As in previous years in my presentation to the committee, I will open my comments by stressing the importance of the NLRB finding methods to meet the ever increasing burden of new cases coming before us while at the same time maintaining the high quality of casehandling and public service

that are this Agency's hallmarks. The record shows clearly that this challenge has not altered. Fiscal Year 1977, as in the preceding fiscal year and so many before that, saw the highest number of unfair labor practice charges and representation petitions ever filed with the NLRB. I believe that this Agency has again met the challenges posed by that record intake. I am proud of the accomplishments we achieved in 1977, of our record thus far in Fiscal Year 1978, and I am confident of success through the remainder of Fiscal Year 1978.

Our accomplishments in Fiscal Year 1977 included:

(1) A record number of closings of cases, up 15.8 percent from 1976 at 53,400 cases. Closed cases exceeded newly filed cases by 983, thus reducing the number of pending cases.

(2) 4,834 complaints, a record high number, which were issued in a median of 48 days, compared to 55 days in the previous year.

(3) 9,019 settlements--another record.

(4) A record of over $17,000,000 in backpay and fees, dues and fines was distributed compared to $11,363,827 in Fiscal Year 1976.

(5) A 17.9 percent increase in offers of reinstatement, to a total of 5,500, were securred. Getting so many people back to work diminishes the effects of labor disputes.

For 1979 I am before you to again ask for the resources necessary to enable the NLRB to manage with speed and fairness the caseload we foresee. Approval of our appropriation request of $100,467,000 for 130.7 more staff-years of employment is essential if we are to continue to be successful in achieving this goal. As General Counsel I will have responsibility for 47.7 more staff-years of professional employment and 45.5 more staff-years of clerical employment in our 1979 request which you have before you. In 1979 we must be prepared to receive over 61,000 total new case filings. This is almost 4,100 cases more than anticipated for 1978. As you know, all of these cases are first received and processed in an NLRB field office which are the responsibility of the General Counsel.

I should note that our estimates for Fiscal Year 1979 are based solely on our current statutory authority. Thus, we have not included any estimates on case intake or staffing needs should the statutory changes Congress is now considering become law.

Let me now turn to specific divisions of the Office of the General General Counsel, briefly review our past performance and present to you what we see as the outlook for the future.

FIELD OPERATIONS

General

Regional Office work consists, primarily, of initial processing of the representation and unfair labor practice cases filed with the Agency. That caseload, all of which is generated by private parties (the Agency initiates no cases), is currently running at a rate that will almost reach 57,000 cases in Fiscal Year 1978 and in 1979 will exceed 61,000 cases.

In 1977 over 90% of the unfair labor practice cases were disposed of in the field offices without the need for a formal hearing in a median of 42 days. The Interim Report of the Chairman's Task Force on NLRB, in 1976, concluded that the General Counsel's Office had done an overall good job with respect to the speed of investigations and stated, "The Task Force believes that while some attention should be given to the amount of time taken in the investigation stage of the ULP case, very little time, if any, can be cut from the present median. There will always be problems in particular Regional Offices, or with respect to complex or difficult cases, which keep the median time close to the long-standing 45-day time target."

The "pie" charts on pages 12 and 13 of our Justification show how these cases were disposed of in Fiscal Year 1977 compared to the 1976 disposition pattern. Page 12 shows the disposition pattern of unfair labor practice cases. As you know, all unfair labor practice charges are investigated. In 32.9% of the total, the charging parties voluntarily withdrew their charges and the cases were closed. In another 35.8% of the total, the charging party upon being told that the investigation did not find merit, did not voluntarily withdraw the charge and the case was dismissed. In such cases the charging party is given the opportunity to file an administrative appeal from the Regional Director's dismissal of the charge. In Fiscal Year 1977 nearly 28% of these dismissals were appealed.

The remaining unfair labor practice charges, 31.3% of the total, were those in which our investigation resulted in a determination that the charge appeared to have merit. Of the entire number of unfair labor practice

cases found to have merit during 1977, 81.5% (down from 82.1% in 1976) were closed by being settled without the need for a formal hearing. In the remaining cases in which merit was found formal proceedings involving hearings and in most instances Administrative Law Judges' decisions were required. These cases which reached the stage of review and decision by the Board itself represent only 3.8% of the total case output. About 31.9% of the cases decided by the Board (360 cases) proceeded to the U.S. Circuit Courts of Appeals for review or enforcement.

Page 13 of our Justification shows the pattern of disposition of representation cases. Twenty-three and nine-tenths percent of the representation petitions were withdrawn, 5.6% were dismissed on grounds that no question of representation was presented, 52.3% resulted in voluntary agreement for election and 0.2% represented expedited elections. In the remaining 18.0% of the representation cases, hearings were held, but Regional Director decisions were required in only 16.2% of all the representation cases.

It is apparent from this analysis that it is fortunate that the great mass of cases coming before the Agency are disposed of at the Regional Office level without resort to formal hearings and litigation or action at the Board level in Washington. It is formal action which puts the greatest strain on the budgetary and personnel resources of the Agency and which contributes greatly to time delay in the processing of Agency cases. Litigated unfair labor practice cases cause a much greater financial burden than contested representation cases.

Let me stress that in the unfair labor practice area, 90% of the charges filed are investigated and disposed of informally, in a median of 41 days in Fiscal Year 1977. Of the cases which are found to have merit, over 81% are settled without the need for prolonged and costly litigation. And when a merit case does not settle, the General Counsel is prepared to go to trial within six weeks of the time the charge was filed.

In the representation area, 82% of the cases are closed at the Regional Office level in a median of 51 days without the necessity of formal proceedings. This includes some 9,626 cases which proceeded to an election.

Current Status

In 1977, under the able guidance of Associate General Counsel Joseph E. DeSio, our field offices handled the largest number of cases ever filed with the NLRB. Total ULP cases closed in our field offices by withdrawal, dismissal, settlement or complaint increased by 19.4% in Fiscal Year 1977 over the prior 12 month period. Yet field professionals increased by less than 13.2%. A record number of Representation petitions also were filed and handled. Associate General Counsel DeSio, one of eight Federal Officials to receive a Presidential Management Improvement Award in 1976, has again provided the leadership essential to achieving this outstanding record of accomplishment.

These figures are of course a tribute to all of the dedicated professional and clerical staffs in our field offices. Year in and year out they have met the challenge posed by the increasing caseload with an enthusiasm for and a dedication to public service that may very well be unequaled anywhere in government.

A continuing source of pride to me is our ability to maintain a high settlement rate in those situations where merit is found to exist. As you know, we strive to achieve voluntary settlement of issues before us at all stages of casehandling. I consider this an essential factor in this Agency's ability to manage its growing caseload. Page 12A of our Justification graphically displays the formal and informal settlements achieved by our Regional Offices. It is critically important that we have the personnel we need to administer our settlement program and that this settlement effort be unhampered by budgetary or travel restrictions. The voluntary adjustment of labor disputes is the central purpose of the Act. When we are able to bring about a settlement early in a labor dispute, we have achieved that purpose and have provided the public with the service they need. I am dedicated to resolving the issues brought to us at the earliest possible stage of case processing before these disputes reach the costly, time consuming stage of litigation. More importantly, early resolution of the dispute reduces the economic impact these disputes have on employees.

There have been two serious challenges to our efforts to bring about early settlements. The first that I bring to your attention is the adverse impact of discontinuity in Agency funding as occurred early in Fiscal Year 1978 with the dispute over the HEW provisions in the appropriation bill. Over 1,400 investigations of unfair labor practice charges were delayed during October and November, over 210 ULP hearings, over 440 R-case hearings, and over 180 elections. This is a severe impediment to our settlement efforts. During these delays attitudes harden and further abuses may flourish. Settlement becomes more difficult and costs to the parties and the government rise. This is particularly regrettable when the issues which caused the delay in our funding were totally unrelated to this Agency's mission.

The second challenge to our settlement efforts is this Agency's continuing difficulty in hiring qualified additional Administrative Law Judges. Our rising caseload and the complaints issuing therefrom run head-on into increasingly intolerable time delays in securing a hearing date on the issues. This steadily lengthening time delay - almost double that existing in Fiscal Year 1976 - has, as a direct result, had an adverse impact on this Agency's settlement rate. The long range staffing and cost implications are serious, indeed staggering. Each 1% reduction in settlements that instead become complaints necessitates a formal hearing and eventual Board and enforcement action which can cost well over $500,000. I want to make clear that this appropriation request is based on the assumptions that we will have adequate Judges to hear all the cases we cannot settle, and also that settlements will continue to be achieved at the current high rate.

1979 Outlook

We have estimated a 7.6% increase in unfair labor practice case filings in 1979. The extraordinary growth of case intake from Fiscal Year 1970 through 1972 resuming in early Fiscal Year 1974 and accelerating in 1975 continues. The Fiscal Year 1977 unfair labor practice case intake was 2,834 cases higher than for the same 12 months of 1976, an increase of 8.1%

We have estimated a 6.2% increase in overall filings of representation questions in 1979 as compared to a 12.9% increase estimated in 1978. Currently our representation case filings for the first month of 1978 are

beginning slowly. It is uncertain whether our representation case intake for 1978 will exceed our estimate; however, that is a real possibility. Expansion of industrial activity in an economic recovery is very likely to bring about increased union organizing which shows up quickly in the filing of more representation petitions.

While our request for Fiscal Year 1979 is based on the stated increase in workload and assumes that no adverse events will occur, circumstances do arise from time to time which hinder our direct casehandling work. A recent Circuit Court of Appeals decision on a Freedom of Information Act question has brought about a significant increase in miscellaneous litigation in that circuit which absorbs much attorney time which was budgeted for ordinary case processing. We have reason to hope for a favorable resolution of the issue in the Supreme Court of the U.S. in 1979, but this is an example of an impediment which could not be foreseen.

WASHINGTON CASEHANDLING

Let me turn now to the various branches and divisions of the Office of the General in Washington.

Office of Appeals

If investigation of unfair labor practice charges reveals that there have been no violations of the Act, or the evidence is insufficient to substantiate the charge, the Regional Director is authorized to dismiss a charge, absent withdrawal by the charging party. In such instances, the General Counsel affords the charging party a separate and independent appeal to the Office of Appeals under the General Counsel. While the Act does not specifically require such an appeal procedure, the Office of the General Counsel has followed this practice as a means of insuring that the fullest measure of consideration is given to the position of the charging party. In the event an appeal is taken, the Office of Appeals carefully reviews the regional office files and all the evidence contained therein, including any statements which a party may wish to submit. It also entertains oral arguments by parties to proceedings where it is deemed appropriate or helpful. After weighing all the data submitted, a determination is made to sustain the Regional Director or reverse his determination and direct the issuance of complaint.

During Fiscal Year 1976 the Office of Appeals was assigned the added burden, under the Board's Rules and Regulations, of ruling on appeals of initial denials of information under the Freedom of Information Act.

Current Status and Outlook

The capable hard working staff of the Office of Appeals under the leadership of its Director Robert E. Allen handled a 7.0% increase in appeals filed in 1977 over the same 12 months of 1976.

The Office of Appeals provides an essential service to the public by giving aggrieved parties an opportunity to have a review of their cases and of the region's determination that their charges are not meritorious. It also provides me with a means of assuring that high quality standards are maintained in our regional offices.

Court Enforcement

General

As already indicated, the Office of the General Counsel exercises supervision of all Agency litigation, both before and after Board decision.

The bulk of the litigation after Board decision falls upon the Appellate Court Branch lead by Elliott Moore, Deputy Associate General Counsel. This Branch carries out the function of litigating Board decisions and orders brought for enforcement or review before the eleven U.S. Circuit Courts of Appeals. Board orders, as this Committee is aware, are not self enforcing. To the extent that subsequent proceedings by way of contempt or supplemental litigation are required, the Appellate Court Branch also handles these matters.

In addition, this Branch is involved in special and miscellaneous litigation, largely in U.S. District Courts, arising for the most part from actions brought against the Board or its Regional Directors.

Our Supreme Court Branch under Deputy Associate General Counsel Norton Come, is responsible for briefs and oral arguments in those cases which the Supreme Court undertakes to review and for our fine record before the Court. Much of the work of that Branch, however, is devoted to opposing petitions for Supreme Court review by unsuccessful litigants at the appellate

level. A small portion of the work arises from cases where the Agency appears, usually by request, as an amicus curiae in related areas.

Although it takes a long time to secure court enforcement of a Board decision (September 1977 median was 443 days), the period under our control is merely the time required from issuance of Board decisions to the filing of the petition for enforcement. After the petition the Court's rules and the state of the Court's calendar determine the additional time required, and we have little control over those stages. Currently the time from a regional office request for enforcement (prior to which the regions attempt to secure voluntary compliance) to filing a petition stands at about 29 days.

We have a standing goal of 30 days from referral to filing of a petition and this is the first year we have achieved this important objective. We shall make every effort to maintain this success. I might add that this represents an improvement from our experience of 38 days in Fiscal Year 1976 and 57 days as recently as 1973.

I might mention here our recent efforts to reduce the time taken to gain compliance with a court decision when it does issue. We adopted last year a policy of opposing the stay of a court's mandate while the respondent seeks certiorari in cases where the likelihood of a grant of certiorari is minimal. At least two Courts of Appeals have a court rule applicable specifically to labor cases, and we have written to the other courts asking them to adopt a smimlar rule. In the meantime we are actively opposing petitions for stays, thus reducing the time delay in these cases by at least 90 days.

Current Status and Outlook

In 1977, 360 briefs were filed in the U.S. Circuit Courts of Appeals for an increase of 33 over the same 12 months of 1976. Significantly, this workload increase of 10.1% was performed with an increase of only three-tenths of a staff-year of employment. In 1979 we expect to file 515 briefs, an increase of 90 over 1978, and continue the pattern of productivity increases.

The overall performance and productivity improvements are a direct result of the efforts of Associate General Counsel Carl W. Taylor, who supervises the entire Division of Enforcement Litigation, and his fine staff.

Advice and Legal Research

General

The Division of Advice reviews Regional Office requests for advice on procedural and substantive case matters and assists in formulating policy in those situations that involve novel or unsettled procedural or substantive matters. They are responsible for legal research and analysis as directed by the General Counsel as well as developing and maintaining a legal digest and information retrieval system.

The Division of Advice handled 1,103 cases in 1977 compared to 1,026 cases in the same period of 1976.

Current Status and Outlook

The Division of Advice is expected to process 1,150 cases in 1978 and 1,313 cases in 1979. This is an increase of 14.1% in cases to be handled by only a 7.2% in increase in employment

We have three continuing goals for the Division: first, to provide prompt advice to regional offices; second, to improve productivity; and third, to assure that the novel issues presented to the Division are given the careful consideration that they deserve. The Division of Advice also continues to give very good support to the regional offices by responding to requests for advice in 25 days or fewer, compared to 36 to 40 days in 1972-73. I am satisfied that we can continue to maintain the fine record of this Division under the leadership of Associate General Counsel Harold Datz.

WASHINGTON DIVISION OF ADMINISTRATION

General

The Division of Administration is responsible for all the housekeeping functions required by the Agency to enable the casehandling functions to operate effectively. The Division's responsibilities have multiplied and increased greatly in complexity as the Agency has grown and as additional tasks have been brought about by new laws and regulations.

Current Status and Outlook

Since the appointment of the Director, Ernest Russell, in Fiscal Year 1976, the Division's major attention has been focused on the installation of modern data processing equipment, acquisition of adequate space from

GSA for the Agency's field installations, continuing improvements in the Division's service to the casehandling areas of the Agency, and improved training, communication, and evaluation of its employees, and full automated property, accounting, and payroll systems.

Progress in all of these areas is well under way and the Division of Administration is providing efficient, effective support for the Agency with perhaps its historic lowest complement of employees compared to total Agency size.

EQUAL EMPLOYMENT OPPORTUNITY

One of the 10 major goals for the Office of the General Counsel is to continue to improve our equal employment opportunity program with emphasis on developing minorities and women so that they are prepared to compete for managerial and supervisory positions. This goal can be realized only to the extent that we are successful in recruiting and retaining minority and female employees.

From July 1, 1976, to June 30, 1977, the Board and General Counsel hired 322 professional employees, of which 53 were Blacks (16.4 percent), 120 were women (37.3 percent—23 Blacks, 2 Hispanics, 1 Oriental), and 13 were Hispanics and other minorities (4.0 percent).

This recruitment effort is a continuation of our highly successful EEO program. During the past seven years we have hired a substantial number of professional employees, over half of whom have been minorities and women. This has resulted in our being able to achieve our long term goal of increasing the numbers of women and minorities in the Agency. For example, in 1974, 8.5% of our professional staff were minorities and 14.3% were women. In 1976 this increased to 10.9% and 17.2% and in 1977, 12.9% and 21.7%, respectively. Under our Director of Equal Employment Opportunity, Henry Silva, we have issued our CSC-approved 1978 action Plan.

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SUMMARY

With your help and understanding, for which we are grateful, we have been able to carry out our mission of trying to provide acceptable service in all of the areas which are significant in the operations under the supervision of the Office of the General Counsel. For the coming year the Agency dedicates itself to the continuation of this effort. This is now the third time I have had the pleasure of appearing before you in behalf of the Agency as General Counsel. I am continuing to keep my pledge to work long hours and to do my very best to fulfill all of my obligations. I will continue to do so.

Thank you.

STATEMENT OF CHAIRMAN FANNING

Senator BURDICK. Chairman Fanning, please summarize your remarks for us now.

Mr. FANNING. Thank you, Senator.

My name is John Fanning. I am chairman of the Board. I am a new chairman but an old Board member. I have been on the Board since 1957 as a member. President Carter appointed me chairman of the Board in April, and reappointed me in December. As you have indicated our fiscal year 1979 fund request is for an appropriation of $100,467,000, an increase of—over 1978 of $7,959,000. I should say as proud as I am to appear before you for the first time as chairman, I think I have appeared before this committee as a Board member each year for the 20 years I have been on the Board. I am not happy with the fact that this is the NLRB's first $100 million budget request.

Yet I have carefully reviewed the figures you have before you today, and if this agency is to cope successfully with the anticipated record high workload of fiscal year 1979, then this $100 million-plus budget request, the people and resources it will fund are essential.

HIGHLIGHTS

I have about five points that I should make in summary and say that once again, the essence of the justification of our appropriation request is the intake of cases we expect in 1979.

Both ULP and representation cases are expected to increase from a total of 53,000 in fiscal year 1977 to 57,000 in 1978 and to 61,000 in 1979. We are already receiving over 1,100 new cases every week in our regional offices.

In turn we are getting out more work. A number of new records have been set by the five-member Board and its staff and the General Counsel's staff. These include a record number of complaints, 4,797; settlements, 9,019; and contested decisions by the Board: 1,127 in unfair labor practice cases and 721 in contested representation cases. The Board also issued 956 other decisions and rulings in 1977.

The Division of Judges also issued a record number of ULP decisions, 1,188 initial and backpay.

We have cut our backlog as we promised to do at last year's hearing from 19,173 to 18,208 total cases pending throughout the agency in spite of heavier intake of new cases.

Our approved current year, that is 1978, budget provides for 130 administrative law judges, but we cannot appoint more than 96 at this time because of a limit on GS–16's available to Civil Service Commission for that purpose.

This has caused the number of cases docketed and awaiting a hearing to double since 2 years ago, and this is in spite of some productivity increases by the judges that we are proud of.

The median time for getting the parties an administrative law judge decision has increased to 203 days from 127 days in 1975. This is, in my judgment, the most serious problem we have and all our hopes are riding on H.R. 6975, now in the Senate Government Operations Committee.

So, our request to you is basically for the funds to give us approximately 131 more staff-years of employment than in 1978, a 4½ percent increase in staffing to handle about 7-percent increase in cases.

There are no major, new programs so nearly all of the increase in our budget is for these additional employees and the direct costs of processing more cases. Due to a lower vacancy rate we can obtain the 131 additional staff-years of employment with only 98 new positions.

I emphasize again, of course, that we don't initiate these. People come to us, file the charges, file their requests for elections and, of course, under the statute we have to accept them and process them.

I think that is a summary of what we are asking you to give us, Senator. I would be happy to entertain questions or ask the General Counsel of the agency to present the details of his operation.

Under the statute, as you know, he is responsible for the administration of all our field activities where most of our people are.

Senator BURDICK. Counsel, do you have anything to add?

MR. IRVING. Senator, I have nothing additional. I will be happy to answer any questions.

ADMINISTRATIVE LAW JUDGE TASK FORCE

Senator BURDICK. I understand the draft report is due next Wednesday from the administrative law judge task force.

What can you report on its findings and recommendations with respect to ways to recruit more minorities and can you supply the committee with a copy of the draft when it becomes available?

Mr. FANNING. I don't know what draft report you are talking about, Senator. I assume it may well be the General Accounting Office report, they are doing a study of the administrative law judge situation.

I can tell you from our standpoint that we have 93 administrative law judges presently on board, of which 7 are women, 3 are blacks, and we are always trying to recruit both women and blacks for this highly demanding job.

But I don't know of any situation where any applicant, woman or black, who has ever been rejected as an administrative law judge, but there aren't too many applicants in these categories.

Senator BURDICK. Staff tells me the task force we are referring to is the one set up jointly with the Civil Service Commission.

Mr. FANNING. Oh. Well, we have a representative on that task force. I was not aware of their schedule to come up with a report by next Wednesday. I can comment generally, however, on the problem confronting us in the administrative law judge field.

CEILING ON ADMINISTRATIVE LAW JUDGES

For at least 2 years, and maybe longer, we have had the authority of this committee and the money provided by this committee to hire up to 130 administrative law judges. We need them very desperately. The bottleneck is simply that the administrative law judges are classified at GS–16 salary grade.

The Civil Service Commission doesn't have any grades of that kind to allot to us. As a result, about 2 years ago we and the Commission and the administration sponsored the introduction of H.R. 6975, which would provide 100 administrative law judges, of which we have at least, I think it is fair to say, an informal understanding with the Commission that up to 30 could be allocated to us assuming again that we justify them and present the needs and so forth.

That bill has passed the House and is pending, as I indicated, before Senator Sasser's subcommittee. We have made recommendations to the Senator, and he may be waiting for some of these reports that have been mentioned.

I would hope that the bill would be reported out favorably and would be acted on by the Senate as expeditiously as possible, because at the present time, each of our administrative law judges is carrying 8 to 11 unwritten but heard cases. That means that it is a bottleneck in the whole supply pipeline.

The Board is getting few cases to decide.

For example, a couple weeks ago my staff got one C-case and one R-case simply because they were backlogged at the administrative law judge's level.

At the moment we are scheduling hearings——

Senator BURDICK. I am just a country lawyer but what is a C-case and an R-case?

Mr. FANNING. I apologize, sir.

A C-case is an unfair labor practice case. An R-case is an elections case, a representation case. At the present time because of the dramatic increase in the inflow of cases, we have to schedule hearings up to 5 months after the General Counsel has issued a complaint.

This bottles up the whole operation because, as you know, Senator, the best time to get a settlement of a case is when a hearing is around the corner. If you know that you have to go into court tomorrow, you are much more amenable to discussing settlement today if you don't have the strongest possible case.

But if that hearing date, that accounting date, is 5 months away, well, you have got other things to keep you occupied. Your client is——

Senator BURDICK. You are so right.

JUDGES WORKLOAD AND PRODUCTIVITY

Mr. FANNING. The result is that we figure that at the moment we are settling about 81 percent of the cases, meritorious cases in which the General Counsel issues a complaint on. We figure that for every one percentage point that settlement rate drops, it will cost us ultimately $500,000 to process those cases through to completion at a later time. Speed is very much of the essence.

I am sure that John can give you some horrible examples of what the impact of this is all about. Impact from our standpoint is even worse because an attempt to have hearings while the witnesses are fresh and while the story is fresh in everybody's mind, we have been sending judges out to hear the cases. And then they just stack up on some judge's desk because the next week he is sent out to hear another case and he doesn't have writing time.

And so as a result, as I say, most judges are carrying 8 to 11 cases that haven't yet been written up. They have been heard but they haven't been written up. And, of course, until they are written up and issued, they won't do anybody any good. They won't do the parties any good, they won't do us any good. We can't get them out.

So if you can get H.R. 6975 out, you will earn our undying gratitude.

Mr. IRVING. Senator, I would just add that I would characterize the problem as nothing short of urgent.

Six years ago from the time we issued a complaint to the time we got to a hearing with an administrative law judge was about 6 weeks. Now we are issuing complaints for hearings 6 months away. It has a very detrimental impact on our settlement rate.

Last year we settled about 9,000 unfair labor practice cases. Every month as the hearings get further and further from us, the schedule for hearings gets longer and longer, people are less and less apt to settle, as you indicate. And it has a very detrimental impact on field operations.

The General Counsel does not feel that the law judges are doing less than they did 6 years ago. They are doing more. They are working harder than ever before and their productivity is higher than it has ever been, but it is just sheer numbers.

ISSUES BEFORE GOVERNMENTAL AFFAIRS COMMITTEE

Senator BURDICK.-You have completed testimony before the Governmental Affairs Committee?

Mr. FANNING. Yes.

Senator BURDICK. Is the bill in the markup stage?

Mrs. TANNER. I don't know, sir.

Senator BURDICK. That is not my committee.

Mr. FANNING. I know.

Mr. IRVING. Right.

Mr. FANNING. I testified before the committee, and Judge Kessel, our chief administrative law judge, also testified before this committee last October. I don't really think there is any opposition to the bill.

I have heard of none, certainly.

There are studies in process by both the General Accounting Office and by the Civil Service Commission on such matters as trying to improve the selection of administrative law judges, the selection process, which is now fairly cumbersome and time consuming.

Then the supervision of administrative law judges after appointment, and the disciplinary controls, they are all things that go into personnel administration in which I am inclined to agree with, generally speaking. But, when you get several agencies debating in an administrative report, it takes time. Some of the recommendations which I have been told about informally I think may even require amendment of the Administrative Procedures Act.

Whenever you start amending legislation of that character, that takes time. In the meantime, our need is immediate and critical.

So what I have suggested to the Senator, to his staff and to the agencies that are doing this study in which we have participated, is

that they proceed on this bill and then go ahead with the things that they think will improve the appointment, selection, and handling of administrative law judges.

In the meantime we can get ahead with the cases. Whatever they come up with, I am reasonably sure we could endorse.

Senator BURDICK. I understand that this bill which is pending in the other committee provides authority for 30 judges.

Mr. FANNING. Yes; actually the bill would provide for 100.

Senator BURDICK. Is the increase you are asking for sufficient?

Mr. FANNING. Yes, it has been built into our budget for a couple years.

Mr. IRVING. If that settlement rate drops 1 percent, the price tag on that is about $500,000.

That means that we send to the law judges and ultimately to the Board an additional 125 litigated cases.

Senator BURDICK. Staff tells me that one of the delays is caused by the pending GAO report. Are you aware of that?

Mr. FANNING. Yes, I am. I have a draft copy on my desk.

The chief judge and I spent 2 hours with the members of the GAO committee who are preparing the report Wednesday of this week. We have conveyed some general observations, we did not have much time to study it.

We have promised to give them a specific critique by February 6. I have told them informally that I agree in principle with just about everything they recommend.

My only quarrel with it is the time problem. You have to get all the Government agencies who hired administrative law judges, I suppose, to provide their comments and to agree or disagree.

You have to have the Civil Service Commission, you have to have the Office of Management and Budget, you have a lot of hands dipping into this thing.

In the meantime, I can see a year going by or at least the balance of this congressional session going by, and we are asking for help. Nothing that they have recommended would have an impact—would be affected, in my judgment, by the enactment of this bill that is pending before Senator Sasser's committee.

Mr. IRVING. There really is not any disagreement that the Labor Board needs at least an additional 30 judges quickly.

Mr. FANNING. No; as a matter of fact OMB on behalf of the administration has been urging this for about 2 years.

Senator BURDICK. If there is a broad range of agreement that you need the 30 judges, why can't these comments be returned very fast?

Mr. FANNING. Well we just got them Wednesday.

Mr. IRVING. As the chairman indicated, they are getting into other matters now that are unrelated to the Labor Board's need for these additional judges, and the whole problem of considering additional judges for the Labor Board has raised other kinds of questions with respect to administrative law judges, selection, and discipline and that sort of thing.

Now the whole thing is all tied together unfortunately.

Mr. FANNING. One of the ideas we brooded about is that all administrative law judges in the Federal Government should be put together in some kind of a super agency administered separate-

ly and so forth and so on, and that as you need a judge, the agency would draw on this pool of judges.

That, I think, would not be very efficient or very desirable, when you have in our case a need to hear 1,500 or 1,800 cases a year, if you have to go to some other agency and take what is available, we think that would be bad.

But as far as improving the selection of judges, as far as administering the judges, as far as supervising and disciplining the judges after appointment, we have no problem with it.

My only problem is that talk, talk, talk does not produce judges. We need bodies. Warm bodies.

Senator BURDICK. Clear heads. [Laughter.]

Mr. FANNING. Well, even as long as we have bodies who will give us a transcript and decision, we will clear them up. We will clarify the situation.

EMPLOYEE TURNOVER ON LEGAL STAFFS

Senator BURDICK. Well, I think you have answered my question on 130. Notes here indicate a heavy staff turnover. What is the situation regarding your staff, your legal staff?

I suppose this is separate from the administrative law judges.

Mr. FANNING. Yes, the General Counsel has about 80 percent of our lawyers. And I am not familiar with the statistics in that regard.

I think at the Board level we have about 10 to 20 percent of the lawyers. Most of those are on-Board members' individual staffs as legal assistants to the Board member.

I think that our turnover rate has been pretty much within traditional limitations. I think that our—our Comptroller tells me that out of our approximately 2,900 employees, that would include lawyers, secretaries, and everyone else, we lose between 10 to 15 percent of our attorneys per year. That has been pretty steady over the years. That includes secretaries, as I say, librarians, and so forth.

John, how about your lawyers?

Mr. IRVING. I don't have the exact percentage. I would be happy to supply it for you but it is not really that high.

We take lawyers in at what we call the entrance grade which is GS–9. We now have a policy in effect at both the Board level and at the General Counsel level where we ask our new lawyers to give us a commitment of 3 years.

That has been in effect now for about a year. All of our people hired last year came in under that commitment. That should help the problem.

But as I say, we do take people in at the entrance level, GS–9 for lawyers, and the tendency is for them to stay with us for 2 or 3 years. Then, as a result of the skills that they acquire, trial skills and case handling skills at the agency, inevitably many of them are made offers that they cannot refuse.

And as a result we do lose many. Last year our turnover rate among attorneys in the field was about 9 to 10 percent. That is—that would include retirements, as well as the people who had received offers they cannot refuse.

Very few of the people that leave us, leave us because they are unhappy. Most of them leave for greener pastures.

Mr. FANNING. Also, Senator, as a Government agency, it has been argued that we do have some responsibility for helping to improve the state of the art in labor-management relations.

We are trying to stabilize labor-management relations in this country. To the extent we spend 3 years training a young attorney and he or she then goes into private industry, we feel we have contributed indirectly by providing a knowledgeable person who is familiar with Board policies and Board procedures and Board philosophy, and that indirectly he contributes, even though we have spent some time and money training him and then losing him when he gets at his most productive period.

On the other hand, I think you need some turnover to maintain new blood coming into an agency, otherwise you get very stereotyped. If you had the same people all the time in the same jobs handling the same cases, you would lose that element of new ideas and new people making contributions.

So I think as long as we can keep it within reasonable bounds we are doing all right.

ELAPSED TIME IN LITIGATED CASES

Senator BURDICK. Has your productivity continued to increase since last year?

What success have you had in reducing case proceedings and the time toward the goal of 6 months mentioned by Commissioner Murphy last year?

He set some kind of goal, apparently.

Mr. FANNING. I think that was my goal really, I have been saying so for 20 years.

Senator BURDICK. What progress has been made?

Mr. FANNING. We are not close to 6 months, Senator. We are very good in the elections field, I think. We run consent elections, what we call consent elections in the median time of about 37 to 38 days.

As you know, under the Landrum-Griffin Act we delegated to our regional directors the authority to direct elections without remanding them to the Board. And in those cases they are doing it in about 45, 46 days approximately.

The cases that come in to the Board because they are new, for example, we are still developing case law in the health care field, we were given jurisdiction in 1974 to go into hospitals and nursing homes and so forth. It always takes several years to develop case law, unit law in new fields like that.

So many of those cases have to come in. In those cases, the educational field is another field that we got into. I think we are averaging about 260 days, but we are working on it and we have cut it down. Our productivity is about, we had about an 8-percent increase in productivity last year, and I think we are making reasonable progress.

CASES CLOSED INFORMALLY

Mr. IRVING. Senator, if I may I would just like to add that 90 percent of the agency's cases, let's say, of the unfair labor practice cases that come to us, roughly between 35,000 to 40,000 of them a year, 90 percent of those cases are disposed of at the regional office level without litigation and without ever seeing Washington in a median time of 41 days.

Senator BURDICK. That is without any hearings at all?

Mr. IRVING. That is without any hearings. Cases are investigated, and a determination is made as to whether or not they have merit. If they don't have merit there is a solicitation of a withdrawal.

If we don't get a withdrawal on nonmerit cases it is dismissed. If we have a merit case and there is a determination of merit, a complaint will issue. Then we will either go to hearing or there will be a settlement.

Most of our cases, as I say, are informally disposed of one way or the other at this regional office level and the informal disposition comes in a median of 41 days.

In the event that it is a merit case and a complaint has to issue, so that we have to go to hearing, that complaint will issue in 48 days' median time from the time the charge is filed, again, investigation, determination of merit, drafting of the complaint, and issuance in 48 days. That is down from 55 days' median time in 1976.

EFFECT OF DELAYS IN SCHEDULING HEARINGS

Senator BURDICK. You say only 10 percent overall go to hearing or litigation?

Mr. IRVING. That is right; and ultimately really only 3.8 percent of the cases ever really reach the Board. That is the tip of the pyramid, and most of them are disposed of somewhere along the way.

But you know, just to highlight the problem we are talking about before being able to get to a hearing, it is discouraging when a charge gets filed and the regional offices have to get out there and investigate, and we watch very carefully to see how long it is taking and how quickly a decision is made and on a merit case how quickly the complaint gets out, and a complaint will get out in 48 days, and the way things are running now we then have to wait for another 5 or 6 months to get a judgment.

So here is all this work, but it is important that we do that even though we have to wait because once we determine merit we might get a settlement in that case. So it is important to get the case out even—to get the determination of merit made even though you might have to wait for a judgment.

But as we pointed out before, the longer we have to wait for a judgment, the more difficult it is to get that settlement. Then our field people begin to wonder, well, all we do is investigate the case and rush, rush, and we hurry up and wait.

Mr. FANNING. Actually, if you have to wait, you know, you have to prepare the case a second time because it is not the only case an attorney is handling. If he has to wait 4 or 5 months to definitize a case he has to read all the papers and all the briefs and duplicate the job he did several months ago.

Senator BURDICK. Not only that, but the longer you wait the more whiskers grow as we used to say.

Mr. FANNING. That is right; witnesses die.

Mr. IRVING. Their recollection changes, their recollection is different from the affidavit they gave you that was fresh at the time.

Mr. FANNING. They retire, move to Florida, you know. It is a very difficult situation from a litigation standpoint.

Senator BURDICK. I think you have made a very good case for these 30 judges.

Mr. FANNING. Well, we think we have, Senator.

Mr. IRVING. We haven't found anybody that disagrees with us. We just can't get them.

Mr. FANNING. Even the people that are trying to revise the whole administrative law judge setup admit to us our current need, and I think we may have persuaded them to so notify Senator Sasser that it wouldn't interfere with their study if he goes ahead and reports out the bill. I hope so.

PENDING WORKLOAD AT NLRB

Senator BURDICK. Last year the Board reported 19,000 cases pending. What is the total this year?

Mr. FANNING. We dropped it about 900 cases. From 19,000-some-odd, to 18,000-some-odd.

REASONS FOR INCREASED WORKLOAD

Senator BURDICK. Last year a need was cited for research into the causes of the increasing number of unfair labor practices cases filed.

Have you done anything to explore ways to study this and get some answers?

Mr. FANNING. We have a Director of Research. Unfortunately, we cannot hire any economists. We have come up with some conclusions but it is very difficult. I think part of the result is that just our population has grown. There are more people. Business is expanding, there are more business entities, more people working, in some cases there is more unemployment.

In my own State of Rhode Island the Navy pulled out of Newport and the State lost 19,000 jobs as a result of that. That has happened elsewhere. So it is a very complicated situation. I don't think you can pinpoint it and say this is the reason or that is the reason.

Strangely enough we find that in some election years the workload drops off quite a bit because the unions are busy trying to elect some of their candidates. As a result they don't spend as much time organizing or developing unfair labor practice cases. Not to a great extent and maybe for no more than 6 months of the year.

But the point I am trying to illustrate is that it is a very complicated thing and we don't have any pat answers.

Mr. IRVING. There is one thing we do know, though. Every year the figure goes up. Rather than try to tie it to unemployment or tie it to how much, how many resources are being devoted to an organization, or other empirical things like that, we engage in a budget process which calls for estimates by our people that are on

the scene, our regional directors out in their regional offices, our regional directors make it their best guess based upon what is going on in their region as to what the case intake is likely to be the coming year.

And it is rare that they are off by much.

Mr. FANNING. As a matter of fact, they have been largely conservative in their estimates.

Mr. IRVING. That is right. On balance over the years we have been conservative. But we have been very, very close.

Mr. FANNING. In only 1 year since World War II, Senator, has the amount or number of unfair labor practice cases dropped. That was 1973. Every year since World War II, cases have gone up, so much so that I think I could illustrate it this way.

From 1970 to 1975 or 1976, I guess, our case intake went up by 10,000 cases. In 1977 and 1978 we expect it to go up 10,000 cases. So that we are now getting case increases in 2 years that previously took 6 or 7 years.

RECENT EMPLOYMENT AND CASE INTAKE TRENDS

Mr. IRVING. We are predicting 42,882 unfair labor practice cases in 1979, which would be a 103-percent increase since 1970.

Mr. FANNING. Of all of that actually, I think the percentage, from an employee standpoint, we have been going up at the rate of almost 7 percent a year in case intake.

Again, I stress we have no control over that. Our personnel requirements have been going up at about 3½ or 3.7 percent a year, which is some indication of the productivity thing that you asked a few moments ago. Our productivity is going up.

Senator BURDICK. I remember that in the New Deal days that to talk about 60 million jobs was semiradical.

What have we got now, 87 million?

Mr. FANNING. Well, over 80. I don't know if it is 87 but well over 80. Yes. About 10 years ago I was giving a speech. I made the statement that pretty soon the Board would have 70,000 cases a year. And it was hooted at, you know, as a radical statement. We are now up to 61,000 for 1979. And that is not very far from 70,000.

I mean 2 more years after that and I think, absent some dramatic change in the economy of the country, that we will hit that 70,000.

QUESTIONS SUBMITTED BY SENATOR BURDICK

Senator BURDICK. We have a few more questions here, but in the interest of time I think I will submit them in writing.

Mr. FANNING. All right, Senator.

Senator BURDICK. Thank you very much.

Mr. FANNING. Thank you.

[CLERK'S NOTE.—The justification material for this account appears in the House fiscal year 1979 Labor-HEW Appropriations Subcommittee hearing record.]

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing.]

PRODUCTIVITY CONTINUED TO INCREASE

Question:

Has your productivity continued to increase since last year?

Answers :

In fiscal year 1977 the Board increased its productivity in output of original Board Decisions from 17.5 per staff-year in 1976 to 20.2 in 1977.

Question:

How many of your current ALJ's have come from within the ranks of the NLRB's staff attorneys?

Answer :

Presently 62 of our present Judges were attorneys with the NLRB at the time of their appointment as Judges.

STAFF TURNOVER

Question :

One of your biggest staff problems has been relatively heavy turnover of legal staff.

Has the so-called "Moral Commitment" Requirement to stay three years improved the situation at all?

Answer :

The three-year moral commitment first went into effect in March 1976 for attorneys in the Regional Offices. The commitment requires that the employee remain in the employ of the Agency for a minimum of 3 years, with the understanding that the commitment is not binding during their first year of employment. The commitment is not binding during the first year of employment since that is the employee's probationary period.

In order to evaluate the effectiveness of the program a review was made of the attorney hires in the period from March 1976 through December 1976. All of these attorneys were hired under the 3-year commitment and have been employed in excess of 1 year. A total of 99 attorneys were hired in the Regional Offices in this time period. Thirteen, or 13.9% resigned during the first year of employment, and we do not consider their resig-

nations as a breach of the commitment. Three attorneys, or 3% resigned during the second year of employment. Thus, a total of 16.1% of these 99 attorneys have resigned during their first 2 years of employment.

By comparison, in Fiscal Year 1975 15 of the 55 attorneys who resigned had 2 years or less seniority. That represents an attorney turnover rate of 27.7% during the first 2 years of employment. In Fiscal Year 1976 26 of the 79 attorneys who resigned had 2 years or less seniority, and this is a turnover rate of 32.9%.

Although it is still early in the second year of the commitment for a substantial number of attorneys, it appears from the aforementioned figures that the commitment has had a positive effect in reducing the turnover rate amongst newly hired attorneys.

NLRB CASE PROCESSING TIME

Question:

What do your latest statistics show as to how quickly you resolve disputes and conduct elections?

Answer :

The statistics for Fiscal Year 1977 show that over 90% of all the unfair labor practice charges filed were investigated and disposed of informally by our Regional Offices in a median of 41 days. A withdrawal was obtained in 32.9% of all the cases filed in a median of 26 days. Thirty-five and eight-tenths percent of the cases were dismissed; the median time from filing to closing for those cases which were dismissed and no appeal was taken was 50 days; while the median for appealed dismissal cases was 73 days. The remaining 31.3% of the total number of cases filed were found to be meritorious cases, of which 81.5% were settled without the need of a formal hearing in a median of 34 days. In those cases where formal proceedings were necessary, the median time to proceed from the filing of the charge to the issuance of complaint was 48 days. The median time to proceed from the issuance of the complaint to the close of hearing was 90 days. The median to proceed from close of hearing to ALJ's decision was 113, while a 134 day median was required to proceed from the issuance of the ALJ decision to Board decision and a 396 median was required to proceed from the filing of a charge to a Board decision.

With respect to representation cases, 82% of all the cases filed were closed at the Regional Office level in a median of 51 days without the necessity of formal proceedings. Twenty-three and nine-tenths percent were withdrawn in a median of 23 days, while 5.6% were dismissed in a median of 42 days. In 52.3% of cases, which is approximately 78% of all merit cases, an election agreement was obtained.

In the remaining 18% of the cases where formal proceedings were necessary, the median time to proceed form the filing of the petition to the notice of hearing was 8 days, while the median to proceed from the notice to the close of hearing was 13 days, and the median between the close of hearing and issuance of RD decision was 33 days. The median to proceed from close of hearing to Board decision was 176 days, while the median between filing petition and RD decision was 47 days, and the median between filing of petition and Board decision was 260 days. In those representation cases where an election was conducted statistics for Fiscal Year 1977 shows the following results. Where the election was pursuant to an election agreement the median time between the filing of the petition and the holding of the election was 45.3 days. In directed elections the median was 76.2 days for RD directed elections and 237.3 days for Board directed elections. In expedited cases, the median to proceed form filing to election was 19.0 days. For all cases combined, the median to proceed from filing to election was 49.7 days.

RELATIONSHIP OF WORKLOAD TO UNEMPLOYMENT

Question:

Once again, you base your request on a forecast of increased intake of cases.

To what extent does this come from a continued high level of unemployment?

Answer :

Unemployment does account for a certain amount of case intake, according to some statistical research we have seen, and we know that the proportion of charges filed by individuals has been higher during much of the relatively high unemployment of the 70's. But the other measure, total employment, has hit new highs in the same period and so a larger work force contains the potential for more cases. Also during business

expansions the formation of new units may generate both representation and unfair labor practice cases. Yet even a stable level of business activity includes constant plant opening and relocations and business reorganizations.

The money and effort allocated by Unions could be a factor that varies over time.

But even if we were to find a close statistical relationship between our workload and other economic indicators, none of those indicators predict the future as far ahead as the budget and appropriation cycle requires.

BACK PAY DETERMINATIONS

Question :

How much money are discharged employees receiving as a result of NLRB back pay determinations?

Answer :

1977 was far and away the biggest year in that $17,576,320 was paid back as a result of our case dispositions. This was more than 50% over the $11,363,827 in Fiscal Year 1976.

Question:

The "Labor Reform Act of 1977" pending before the Senate would increase the number of Board Members on the National Labor Relations Board from 5 to 7. Yet the Legislation does not authorize the appropriation of any federal funds nor does it provide any new or increased budget authority or increased expenditure.

If the Labor Reform Act is passed and signed by the President, where will the funds come from to support the two new Board Members and their staffs?

Answer:

The Agency will have to request a supplemental appropriation to cover increase expenses of the new Board Members staffs as well as increased activity of the Office of the General Counsel, Field staff and the Division of Judges. This request will be very carefully scrutinized before going to the Office of Management and Budget and this Committee.

Questions:

How are you doing at getting voluntary agreements to dispose of cases without hearings or litigation?

Answers :

In fiscal year 1977 over 90 percent of all the unfair labor practice cases filed were investigated and disposed of by the Board's Regional Offices without the need for a formal hearing. In 32.9 percent of the cases, the charging parties withdrew their charges and the cases were closed. In another 35.8 percent, the cases were dismissed when the charging parties declined to withdraw their charges after being advised that their charges lacked merit. In the remaining 31.3 percent of the cases, the investigation resulted in a determination that the charge appeared to have merit. Of the total number of cases found to have merit, 81.5 percent were settled without the need for a formal hearing. In the remaining meritorious cases, formal proceedings, involving hearing before Administrative Law Judges and review and/or decision by the Board, were required. Only 3.8 percent of the total number of cases filed in fiscal year 1977 were withdrawn, and 5.6 percent were dismissed for failure to raise a question concerning representation. In 52.3 percent of the cases, which is approximately 78 percent of all merit cases, a voluntary agreement for election was obtained and in 0.2 percent of the cases, expedited elections were conducted. In the remaining 18 percent of representation cases, hearings were held.

In summary, 90 percent of all the unfair labor practice cases filed in fiscal year 1977 were investigated and disposed of informally. Of those cases found to have merit, over 81 percent were settled without the need of litigation. In the representation area, 82 percent of the cases were closed at the Regional Office level without the necessity of formal proceedings.

Question:

What impact does your degree of success in getting voluntary agreements have on your budget and workload?

Answers :

The success of the Agency in obtaining settlements or voluntary non-Board adjustments has a substantial impact on the budget and workload of the Agency. As noted above, the Agency had a 81.5 percent settlement rate for fiscal year 1976. A drop of one percentage point in the settlement rate would cause an additional 125 hearings before Administrative Law Judges, according to our 1979 workload projection, and would result in increased litigation costs in excess of $500,000. The early and voluntary settlement of cases is one of the principal objectives of the Agency not only because avoidance of litigation saves the Government and the public a great deal of money, but more importantly because settlements best effectuate the policies of the Act by bringing about better day-to-day collective bargaining relationships. Our employees are continually reminded of the priority and importance that settlements must be given. Recently there have been two serious obstacles to the Agency's efforts to obtain early settlements. First is the adverse impact of discontinuity in Agency funding which occurred in October and November 1977, due to the dispute over the HEW provisions in the appropriation bill. The interruption in Agency funding caused the delay or postponement of 1,400 investigations of unfair labor practice charges, 210 unfair labor practice hearings, 440 representation case hearings, and 180 elections. Such delays severely impair our settlement efforts because delay hardens attitudes and settlement becomes more difficult. The second problem affecting our settlement program is the Agency's continuing difficulty in hiring additional Administrative Law Judges. The shortage of Administrative Law Judges has swollen the Agency's trial calendar and has increased the time delay in securing hearing dates. These two current obstacles have caused the Agency to increase its already close monitoring of the Agency's settlement program. The Agency will do all within its power and available resources to avoid any drop in the settlement rate and, in fact, to further improve the settlement rate.

AFFIRMATIVE ACTION

Question:

Affirmative Action was one of the top priorities of Board Member Murphy during her tenure as Chairperson. Is this one of your priorities under the new Chairman as well?

Answers :

To the Agency affirmative action is the best possible utilization of the skills and talents of all employees and applicants. This simply is good management. Certainly Affirmative Action is, in short, the recognition and development of talent to better perform the Board's task, and is one of our top priorities.

There has been some continuing discussion of the Board's problems of hiring significant numbers of minority and women Administrative Law Judges.

The Board has had a number of talks on this matter with the Chief Judge, the Director of Administration and the EEO Director. They assure you our efforts to reach qualified minorities and women is a continuous process.

Question:

The Civil Service Commission Chairman, Mr. Campbell, maintains that part of the obstacle to hiring more minority and women ALJs is the Board's own stringent requirement of extensive specialized experience in labor law litigation, which restricts the eligible applicants considerably. Have you considered liberalizing your requirements? Have you met with Chairman Campbell to discuss ways to improve recruitment and certification?

Answer :

Granted, our standards are high but recognize also that our products are of the highest quality. If liberalizing means hiring Judges who can't do the job and thereby cheat the tax payer, we don't plan to liberalize; rather, we are taking a hard look at lawyers and judges who are proven authorities in other forms of litigation who are interested in labor law and might easily make the transition. We do plan to meet with Chairman Campbell at the earliest possible time to discuss a number of ways the Commission can help the Agency do its job. Improved recruitment and certification will certainly be discussed. We feel, however, that the

EEO Program has been effective in meeting some of its goals. In 1975 we appointed 2 very well qualified women as Regional Directors (GS-16 appointments) and 1 Black male in 1976. Also in 1976, we appointed a Black male as Director, Division of Administration (GS-16). Further, in 1975 a Black male, GS-16, (who is no longer with the Agency) was appointed to the position of Executive Assistant to the then Chairman. Additionally, 4 Blacks were promoted to GS-15 positions raising the Agency total to 5 Blacks at that level. The goal of advancing women and minorities into supervisory and management positions is an objective of the Agency. For example, of the last 49 supervisory appointments, 6 were females and 2 were Black. In addition, a Black female attorney has been appointed as Special Assistant to the General Counsel. Further, Agency-wide minority employment in GS-14 increased 44 percent, from 9 to 13, women employment in GS-14 increased 35 percent from 17 to 23.

This year, as in the past, the recruiting program continues to receive special emphasis. From July 1, 1976 to June 30, 1977 the Agency hired 322 professional employees, of which 53 were Black (16.4 percent), 120 were women (37.3 percent), and 13 were Hispanic and other minorities (4 percent).

Offers were made to 46 other applicants who declined; of that number 21 were Black, 6 were Hispanic and other minorities and 19 were women.

Upward Mobility efforts resulted in a continuation of the bridge programs for the position of Field Examiner (one trainee position in each 32 regional office, one sub-region) and for employees in the headquarters office, Division of Administration. The clericals selected for these positions will become professional employees after completing an extensive prescribed training program. In addition, under the Upward Mobility program the Agency paid approximately $50,000 for courses of instruction (including evening courses) and related materials (correspondence courses, adult education or college level, etc.) for 142 employees - 53 in Washington and 89 in Field Offices. Also, 84 employees participated in an Agency sponsored evening educational program which consisted of two college level English courses and two business courses.

An analysis of Agency-wide workforce statistics by racial, ethnic and sex groupings indicated employment of Blacks increased from 18.3 percent (444 out of 2,428) in June 1976 to 19.2 percent (508 out of 2,650) as of

June 1977. For the same period of time Black professional employment increased from 8.8 percent (132 out of 1,492) to 10.1 percent (167 out of 1,647). As of June 30, 1976, women held 18.4 percent (274 out of 1,492) of the professional jobs. As of June 30, 1977, women held 27.5 percent (355 out of 1,644) of professional employment. As of June 30, 1977, Hispanic and other minorities professional employment was 3.1 percent (51 out of 1,647) as compared to 3.0 percent (45 out of 1,492) in June 1976.

AFFIRMATIVE ACTION

Question:

Affirmative Action was one of the top priorities of Chairman Murphy during her tenure as Chairperson. Is this one of your priorities as well?

Answer:

Affirmative action is the best possible utilization of the skills and talents of all employees and applicants. This simply is good management. Certainly Affirmative Action is, in short the recognition and development of talent to better perform the Board's task, and is one of my top priorities.

As you know, there has been some continuing discussion of the Board's problems of hiring significant numbers of minority and women Administrative Law Judges.

I have had a number of talks on this matter with my colleagues as well as the Chief Judge, the Director of Administration and the EEO Director. I assure you our efforts to reach qualified minorities and women is a continuous process.

Question:

The Civil Service Commission Chairman, Mr. Campbell, maintains that part of the obstacle to hiring more minority and women ALJs is the Board's own stringent requirement of extensive specialized experience in labor law litigation, which restricts the eligible applicants considerably. Have you considered liberalizing your requirements? Have you met with Chairman Campbell to discuss ways to improve recruitment and certification?

Answer:

Granted, our standards are high but recognize also that our products are of the highest quality. If liberalizing means hiring

Judges who can't do the job and thereby cheat the tax payer, we don't plan to liberalize; rather, we are taking a hard look at lawyers and judges who are proven authorities in other forms of litigation who are interested in labor law and might easily make the transition. I do plan to meet with Chairman Campbell at the earliest possible time to discuss a number of ways the Commission can help the Agency do its job. Improved recruitment and certification will certainly be discussed. I do feel, however, that the EEO Program has been effective in meeting some of its goals. In 1975 we appointed 2 very well qualified women as Regional Directors (GS-16 appointments) and 1 Black male in 1976. Also in 1976, we appointed a Black male as Director, Division of Administration (GS-16). Further, in 1975 a Black male, GS-16, (who is no longer with the Agency) was appointed to the position of Executive Assistant to the then Chairman.

Additionally, 4 Blacks were promoted to GS-15 positions raising the Agency total to 5 Blacks at that level. The goal of advancing women and minorities into supervisory and management positions is an objective of the Agency. For example, of the last 49 supervisory appointments, 6 were females and 2 were Black. In addition, a Black female attorney ahs been appointed as Special Assistant to the General Counsel. Further, Agencywide minority employment in GS-14 increased 44 percent, from 9 to 13, women employment in GS-14 increased 35 percent, from 17 to 23.

This year, as in the past, the recruiting program continues to receive special emphasis. From July 1, 1976 to June 30, 1977 the Agency hired 322 professional employees, of which 53 were Black (16.4 percent), 120 were women (37.3 percent), and 13 were Hispanic and other minorities (4 percent). Offers were made to 46 other applicants who declined; of that number 21 were Black 6 were Hispanic and other minorities and 19 were women.

Upward Mobility efforts resulted in a continuation of the bridge programs for the position of Field Examiner (one trainee position in each 32 regional office, one sub-region) and for employees in the headquarters office, Division of Administration. The clericals selected for these positions will become professional employees

after completing an extensive prescribed training program. In addition, under the Upward Mobility program the Agency paid approximately $50,000 for courses of instruction (including evening courses) and related materials (correspondence courses, adult education or college level, etc.) for 142 employees - 53 in Washington and 89 in Field Offices. Also, 84 employees participated in an Agency sponsored evening educational program which consisted of two college level English courses and two business courses.

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NLRB TASK FORCE

Question: What is the status of the Task Force on NLRB which was studying your procedures last year? Has the Task Force had any beneficial results in terms of your mission?

Answer : The Task Force on the National Labor Relations Board, established under the provisions of the Federal Advisory Committee Act, has completed its duties, having issued a Supplemental Report of Recommendations on December 12, 1977. The Task Force was composed of representatives from labor, management, academia and the public, augumented by the Agency's own top level officials. The Task Force members were experienced in the general field of labor relations and in practice before the Board and included representatives from the AFL-CIO, the U.S. Chamber of Commerce, the NAM, The International Brotherhood of Teamsters, The United Autoworkers Union, The Business Roundtable, The

American Bar Association and The Federal Bar Association. The Task Force provided the opportunity for a broad cross section of the labor-management community to examine our processes, take a fresh look at our method of operation and to better understand the problems faced by the Agency in managing its ever increasing caseload. The Chairman of the Task Force, in noting the beneficial effect of the entire project, stated in the letter transmitting the Task Force Report, "We have come away from our endeavors with a healthier respect than ever for the efficiency and fairness of one of the Federal Government's most effective Agencies."

The Report issued by the Task Force on November 5, 1976, and a Supplement Report issued on December 12, 1977, contained approximately 35 recommendations, all of which are being carefully reviewed by the General Counsel and the Board. The Task Force made many timely and useful suggestions to the Board and the General Counsel.

Some of the more significant Task Force recommendations include the following:

Most notably, the Task Force recommended that the Board adopt a policy which would result in greater certainty insofar as the scheduling of an election was concerned. Thus, whether or not the Board grants a Request for Review of a Regional Director Decision, the election will be conducted at the time scheduled by the Regional Director and the ballots will be impounded except where special circumstances warrant postponement of the election . Although the Board grants Requests for Review in representation cases only about 25 percent of the time, the parties could not be certain whether their case was one of the 25 percent and thus, whether the scheduled election was going to take place, until they were officially advised that the Request for Review had been denied. Under the new procedure, if a Request for Review is granted, the election normally will still go forward on the scheduled date but the ballots would be impounded. Since its adoption, effective August 15, 1977, and through January 1979 the Board has granted a Request for Review, conducted elections and impounded the ballots on 26 occasions, not withstanding that review

has been granted. On 11 other occasions, there were reasons which the Board felt made it impractical to conduct the election,and the scheduled election was stayed when review was granted.

The Task Force submitted several recommendations relating to the training of field examiners and field attorneys and emphasized the need for a meaningful and effective training program at all levels within the Agency. In furtherance of the Task Force recommendations, we have strengthened the training programs within our Regional Offices. In addition, we have developed a training seminar for trial attorneys which includes specialized presentations on the new Federal Rules of Evidence, pre-trial preparation and the conduct of direct and cross-examination under the supervision of experts. We have also completed a round of training conferences for all of our first-line supervisors and are currently designing a follow-up program to be held in late Spring. In order to further achieve our objectives with respect to training hearing officers, we have prepared and distributed to all the Regional Offices a video tape of a simulated representation case hearing. The tape depicts various procedural and evidentiary problems raised by the parties in the course of a representation proceeding.

In accordance with other recommendations of the Task Force, we have reprinted the pamphlet "Your Government Conducts An Election" and will routinely,upon the filing of a petition,distribute six copies to the petitioning unions and the employer with an explicit statement that additional copies are available, if desired. We have also reemphasized the value of binding stipulations concerning eligibility in representation cases (Norris Termidor Agreements) and provided a form for the parties to waive their right to request review in post-election proceedings. In accordance with another Task Force recommendation we have improved the security of challenged and impounded ballots by providing safes for all Regional Offices, and instituted procedures for controlling access to this material.

We have instituted a program to carefully monitor Regional Office performance in the vital area of the timely processing of post election proceedings and have issued guidelines concerning the

time in which various casehandling procedures should be completed. In summary, the Task Force provided valuable suggestions to improve casehandling efficiency and effectiveness and helped underscore the need for the careful training of personnel so that we might better meet the challenges of the years ahead.

Question:

How many of your top level attorneys are minorities and and women?

Answer:

There are 514 attorney senior level positions, GS-13 and above, of which 64 are women and 36 are minorities.

It should be noted that for the period from October, 1975 through June, 1976, the Agency hired a total of 132 professional employees in both headquarters and the field, of which 14.4% were minorities and 32.6% were women. For the period from July 1976 through June 1977, the hiring increased to 322 professional employees and the percentage of minorities increased to 20.4% and the percentage of women increased to 37.3%.

Hiring is traditionally accomplished at the entry level and higher level professional positions are filled through advancement of staff within the Agency, rather than through outside recruitment.

(The Agency attempts to staff its field professional vacancies on a 50:50 ratio between attorneys and field examiners).

CORPORATION FOR PUBLIC BROADCASTING

STATEMENT OF HENRY LOOMIS, PRESIDENT

ACCOMPANIED BY JAMES B. CARDWELL, VICE PRESIDENT FOR FINANCE AND TREASURER

BUDGET REQUEST

Senator BURDICK. Corporation for Public Broadcasting is next.

Our next witness is Mr. Henry Loomis, the president of the Corporation for Public Broadcasting.

Mr. Loomis will explain the Corporation's requests for a fiscal 1978 supplemental of $12,050,000 and for an advance appropriation of $172 million for fiscal 1981. Last year we provided an advance of $152 million for fiscal 1980.

The Corporation for Public Broadcasting is a private, nonprofit corporation established by the Congress to administer funds which are appropriated for public radio and public television stations.

Mr. Loomis, you recently announced your intentions to retire later this year. You have presided over CPB during its most difficult formative years.

Will you please introduce those who are seated at the table with you, and then begin your statement?

Mr. LOOMIS. Thank you.

Mr. Bruce Cardwell is on my right who, for the last 6 weeks, has been our vice president for administration and finance.

Prior to that, for 6 years, I guess it was, was Commissioner of the Social Security Administration, and has spent most of his life in HEW in varying administrative and budget assignments.

OPENING STATEMENT

Mr. Chairman, I appreciate the opportunity to testify today. My testimony will deal with our request for appropriations for fiscal year 1981, following the procedures of the Public Broadcasting Financing Act of 1975 whereby appropriations are made 2 years in advance of the budget year. In this instance, appropriations are requested in the present 1979 budget to be available for obligations and expenditure in 1981.

Mr. Chairman, calendar year 1978 represents an important year for CPB and public broadcasting. This is not just because 1978 marks the start of our second decade, but also because it is the year in which the Public Broadcast Financing Act of 1975 comes before the Congress for renewal.

It is a year that will see the beginning of a new era of technical improvement in the quality and diversity of public broadcasting. 1978 marks the year on which work on the nationwide television satellite interconnection will move from construction to initial

stages of operations. It also marks the start of a similar national project for public radio satellite interconnection.

By 1981, both of these important facilities will be fully operational, bringing improved service to millions. These two satellite projects represent landmark achievements to the credit of all public broadcasting.

Finally, there is in this year an even greater sense of working together for the common good, among CPB, Public Broadcasting Service, National Public Radio, and the stations that make up the public broadcasting family.

We are working together with the administration, in an effort to frame a common position for early presentation to the Congress concerning successor legislation to the Public Broadcast Financing Act of 1975.

While it is unlikely that we will agree among ourselves on every provision of a bill, or for that matter, that we even should, we are already in agreement on the need for early enactment of such legislation, as well as the scope and character of its general features.

In this regard, Mr. Chairman, with your permission, I would like to summarize exactly where the legislation now stands.

ADMINISTRATION'S PUBLIC BROADCASTING PROPOSAL

First, President Carter has already sent to Congress his proposals for early legislative action. His proposals will continue the existing advanced funding concept and the 5-year funding period. They would also increase appropriation ceilings, and would lower the requirements for non-Federal matching.

Mr. Chairman, when I referred to non-Federal matching, I am talking about a requirement in our statute that ties the Federal appropriations to the amount of voluntary contributions received from non-Federal sources.

Finally, the President's plan would shift responsibility for Federal funding of educational broadcast facilities from the Department of Health, Education, and Welfare to the Corporation for Public Broadcasting.

Next, it should be noted that the President's budget for 1979 and its request for CPB funding for 1981 assumes enactment of this or similar legislation, including the relocation of the HEW facilities grant program to CPB.

Finally, it should be emphasized that the board of directors of the Corporation for Public Broadcasting generally endorses the President's proposals.

However, the board favors modifications of certain aspects of the President's plan. The board will seek higher authorizations, a future hearing of non-Federal matching requirements, and avoidance of any further earmarking of Federal funds.

Although these represent important differences, they are, I would emphasize, more a matter of degree than of critical substance.

FISCAL YEAR 1981 APPROPRIATION REQUEST

The Corporation for Public Broadcasting is requesting a 1981 appropriation ceiling of $210 million compared to the $172 million included in the President's budget, and the $152 million available for 1980.

I would like to stress, Mr. Chairman, that Public Broadcasting can raise sufficient non-Federal funds to match the higher amount, the $210 million. That is the reason for our request from the board of $210 million.

Mr. Chairman, I believe it would be helpful to examine our request for a $210 million appropriation in terms of major categories of support. On this basis, the appropriation would be allocated as follows:

More than $121 million, almost 58 percent of the appropriation, is allocated in the form of unrestricted support grants for individual public television and radio stations, and expansion grants for radio.

These basic support grants, called community service grants, help finance both ongoing and expanded operations of local television and radio stations. This base of support for individual stations is, we believe, the most important priority in the CPB budget.

About $47 million, more than 22 percent of the appropriation will support new and expanded national radio and television program production, initiated by local stations and other independent producers. The need for new sources of programs is critical.

Although limited, funds for national program support from CPB are vital to the development of programs which will meet special needs and interests not served by existing programs.

Between now and 1981, we see a need to stress programs that serve the elderly, the handicapped, and minorities.

$20 million, about 10 percent of the appropriation, will support the distribution of national programs via interconnection systems managed by PBS and NPR for television and radio respectively. These funds will be used to lease satellite transponders, and to finance debt service and operational and maintenance costs of the ground system.

$10 million, 5 percent, will go to other important priorities such as improved long-range planning; training, support for women and minorities; improvements in public participation, and better utilization of public broadcasting programs for education.

$6 million, or 3 percent, is identified as a special reserve. This will permit CPB to take advantage of new programing and technological developments and opportunities, and to further activities and projects that are now under development, for which their future potential and cost have yet to be determined. This concept of a targets of opportunity reserve has been a traditional part of the CPB budget.

I may add, Mr. Chairman, I think it is an essential part when you are talking about a budget 2 years hence. I think it is only sensible and prudent to have a reserve. I think 3 percent is not excessive to take care of either disasters or special opportunities.

The last $5 million or 2 percent of the total request will go to CPB administration and management.

Mr. Chairman, this concludes my remarks which, out of concern for time, have been limited to a summary and highlights of our request. We will, of course, be glad to try to answer any questions or to provide any additional information or materials that the committee might like.

Senator BURDICK. Excuse me. I think we have a last call for a vote.

Mr. LOOMIS. Fine.

Senator BURDICK. We will recess briefly.

[A brief recess was taken.]

SUPPLEMENTAL REQUEST FOR FISCAL YEAR 1978

Senator BURDICK. The subcommittee will come to order.

I was going to ask you about your supplemental request for 1978.

Mr. LOOMIS. Senator, 2 years ago, when the Congress was considering the appropriations for the then just-passed Public Broadcasting Financing Act of 1975, we had before the Congress our estimates for the amount of non-Federal money that we would raise for the succeeding 5 years.

These, of course, were estimates. The bill calls for 2½ non-Federal dollars for each Federal dollar. Doing the mathematics, we forecast that we would be able to match or justify $120 million Federal in 1978.

The Senate concurred with that, and the Senate committee passed that.

The House was more pessimistic, and felt that we would be unable to increase our non-Federal money that much. So, they only authorized $107 million.

In conference, the Senate acceded, and the Congress came out with the $107 million.

I am glad to report, however, that the chairman of the House Appropriations Committee, Mr. Flood, did say that if his pessimism was proven wrong, and we were able to match more, that he would support it.

I am glad to also say that non-Federal money would justify $119 million, so that we ask for a supplemental to the administration of $12 million, and the administration has supported that and it is in the 1979 bill.

The figure of $12 million is determined purely by the mathematics of the match. We feel that letting the match operate is a very important incentive for non-Federal support, as well as the insulation of public broadcasting from proper political control.

We have worked out with the Public Broadcasting Service and the National Public Radio how we would spend that money if we were lucky enough to get it. And that comes to $6 million for television local support. That goes directly to the individual television stations. And about $2½ million for television production.

It would call for $1 million for radio production. Just under $1 million would be for the support of the local radio stations. And $1½ million would be to support the radio satellite. That is how we would divide that money up if and when we get it.

I would like to point out that all of that money, therefore, would go for production and local support, and the interconnection, and none of it would go for the corporation or any of the other services.

That completes my testimony on that subject, sir.

PROPOSED CHANGES IN NON-FEDERAL MATCHING RATIO

Senator BURDICK. You say the match is 2½ to 1?

Mr. LOOMIS. That is what it is in the present bill that runs until 1980. The appropriation that we are now asking you for in 1981, of course, we do not yet have an authorization bill. The President's bill calls for a match of 2¼ to 1.

Public broadcasting has consistently requested a match of 2 to 1.

In other words, $1 Federal for each $2 non-Federal. And the corporation feels that that is the right amount.

In other words, a third of the money coming from the Federal Government.

I personally would be very concerned if the match increased significantly beyond that. I would certainly be concerned if it grew to more than 2 to 1.

In other words, if the majority of the money was Federal, I think that public broadcasting would be in a very dangerous position. I think the one-third Federal is about right. Others would like to see it an even match of 1 to 1. That is a matter of judgment. I think everybody feels very comfortable with the 1 to 2.

I perhaps am more conservative or more concerned with Federal dominance than some others. But that certainly we would all agree that 1 to 2 was a justified match. The administration has come halfway, from the 2½ to the present toward that by making it 2¼ to 1 in their bill.

Senator BURDICK. The present law requires 2½.

Mr. LOOMIS. That's correct.

Senator BURDICK. Then the supplemental would be 2½.

Mr. LOOMIS. It is. The supplemental is based on the presently existing law.

Senator BURDICK. That will take care of Mr. Carter's suggestion one way or the other.

Mr. LOOMIS. Yes.

STATION PROGRAM COOPERATIVE

Senator BURDICK. It has been intimated that the so-called big five public television stations exert a lot of control over the program material selected for use in the station program cooperative.

These five stations through their office and bargaining power appear to have built a strong base of power.

First, could you briefly explain how the station program cooperative operates, and is it true that the big five are the major controlling influence on the selection of program material for the station program cooperative?

Mr. LOOMIS. I do not believe they are the major control. I think certainly control is entirely the wrong word. They buy themselves, for themselves, many of the programs, and, therefore, they are a principal source of funding. I better describe how the cooperative works.

It is really an auction. Obviously, those with the largest amount of money affect the price. A producer comes and says, I have a program that I can produce for $1 million. Then the Public Broad-

casting Service, the corporation doesn't do this, the Public Broadcasting Service does this as part of their support for their constituent stations, estimate, let's say, that 70 percent will be required to buy that.

They then calculate the price that each station would have to pay in order to raise the $1 million that the producer needs.

You then have a first round. And if less stations buy or indicate an interest in the program than was anticipated, the price per station of those that want it have to go up because you are dividing the pie between fewer people. Conversely, if more want it, the price goes down.

So you have a series of rounds. And you see that two programs that came in originally at the same cost per station, one gets more people going to it, it therefore gets cheaper per station, therefore, more people come to it. And conversely, the other one gets more expensive. It is a way of the cooperative selection of which are the programs that are most needed.

You only have so much money. How do you spend it? The whole purpose of this is that decisions made by 150 television stations, each putting their money where their mouth is, rather than any central group anywhere saying this is a good program. You should carry this, and that's a poor one.

The main, the big five produce many of the programs in their own shops, and obviously, they try to persuade their confreres to buy them, try to sell them as good programs.

They have to buy their own program back if they are going to show it, and the big five have to pay more for the same show than a little station does, by the same ratio as the difference in the community service grants, approximately.

So, I think that there is no control. There is the final influence of their being large. And that's a fact of life that is not an evil or a bad thing.

STATION PROGRAM COOPERATIVE DECISIONMAKING PROCESS

Senator BURDICK. If, as you say, the 150 make the decisions as to whether they want it, how do they make their views known, the 150? What are the mechanics?

Mr. LOOMIS. The mechanics are that there is a telegraphic connection, which we have all the time with all the stations, and there is a computer, and the results look like a tote board at a race course.

As you can see more bets go on the horses, the odds of that horse change. The same way here, as more people buy the program, the price, the unit price goes down.

Then you have another round, and your price goes either down or up. That is the beauty of this. This isn't just free advice which is sometimes suspect. This is putting your money where your mouth is because when the final round comes, you are legally committed to buy what you said. It is a debt.

Now, another point that should be made is that only about 60 percent, I guess, some number like that, of the schedule comes through this cooperative. The other part of the schedule comes either from programs that are fully funded by the corporation, or

fully funded by other sources. They could be corporations, they can be foundations, they can be endowment to the arts, and so forth.

These are provided free to the stations.

Unlike commercial stations, there is no requirement for them to broadcast them. And there is no requirement to broadcast them at a certain time. They are available to them. They can use them or not, they can reschedule them or they can ignore them. And this is the fundamental difference between us and commercial broadcasting.

This is a deliberate and planned, and, we feel, absolutely essential ingredient of public broadcasting.

Senator BURDICK. Well, a computer doesn't sit around the table discussing things. We know that. People do that. Do 150 people ever get around and discuss equality of the programing?

Mr. LOOMIS. I suspect that the telephone bill goes up during the days of the auction. I suspect that they talk to each other on the telephone. There is a first exercise when our first big book is sent out.

And sometimes, in fact, every year the production stations send out capsules, little vignettes of the program, and why it is a good program, why it is great, and why you should buy it. It is the producer selling it, which is fine, and that the receiving stations are the ones that are the buyers.

Now, many stations get advice from their own audience. Some stations, for example, broadcast over the air these vignettes of upcoming programs, and ask the audience to vote: "Which would you suggest that we buy, this station here?"

Sometimes stations that have little magazines that go out to their membership that will list programs and prices of the programs, and ask the membership to send back ballots.

Sometimes they will have studio audiences come in and look at them, and have the audiences vote. Each station does it slightly differently. Within the station there may be a big debate between the programing staff and the manager, and sometimes the board of directors, as to which one they need because they have limited money, and they can't buy them all.

It is a very selective process, and one of the reasons that we strongly support these high numbers which put significantly more money into the hands of the stations is that they can buy more programs. And about two-thirds of the money goes to buying programs.

MAJOR PRODUCTION STATIONS INFLUENCE ON STATION PROGRAM COOPERATIVE

Senator BURDICK. I wonder if you could supply for the record just how much those big five contribute. Elaborate on what you have said.

Mr. LOOMIS. Certainly.

Senator BURDICK. And what percentage of the programs are selected?

Mr. LOOMIS. All right. That latter will be somewhat—we can do that. As to those programs that got far enough to get into the preference round, there are others that start, but never get off the block. But we can do that.

[The information follows:]

THE ALLEGED INFLUENCE OF THE BIG FIVE PTV STATIONS ON THE SELECTION OF SPC PROGRAMS

In SPC-4 the "big five" producing stations (WNET, WGBH, KCET, WETA, KQED) submitted 30 of the 108 proposals (28 percent) made available for preference round consideration. Of these, 24 were selected by the stations for the final catalog comprised of 49 proposals or 49 percent. A total of 24 offerings were purchased by the stations in SPC-4 and of these 12 originated from major producers (50 percent). Based on these figures it is quite obvious that the "major" producers are accurately described.

However, this data does not address the issue of major station influence. No doubt they are successful at selling their programs to the stations. They have good track records and they produce programs of quality consistently higher than other system producers. The stations realize this and respond by buying the programs. If that is what one would call "influence," then the major producers do have it.

Another way of looking at this question is to analyze the pricing shares available to these stations because of their size. In SPC-5 the combined purchasing power of the "big five" comes to about 15 percent of the total market. If this 15 percent were voted as a bloc it would be a sizable but by no means a controlling influence. The key word here is "if." For this criticism to be partially valid major stations would have to vote as a bloc and all the studies indicate that bloc voting simply does not occur.

COMMUNITY SERVICE GRANTS AND EDUCATIONAL BROADCASTING FACILITIES PROGRAM GRANTS

Senator BURDICK. As long as we are talking about getting answers to the subcommittee in time, I have 2 more for you.

North Dakota has two public television stations which have made a contribution to our State. These are: KFME, channel 15, in Fargo, and KGFE, channel 2, in Grand Forks.

The funds they receive are from public broadcasting.

Second, last year, I introduced an amendment increasing the funds for the educational national broadcasting facilities program. It is my understanding these funds were very much needed by public broadcasting stations by approximation.

Can you give us a summary of what has happened under the facilities grant program?

Mr. LOOMIS. Again, I would have to do that for the record.

Senator BURDICK. That is fine.

[The information follows:]

Community Service Grants (CSG's) to North Dakota Stations

Public television stations:	
KFME/KGFE:	
78	$167,337
81:	
High	[1] 261,367
Low	[1] 261,367
Public radio station:	
KEYA/FM:	
78	71,497
81:	
High	143,223
Low	131,274

[1] Means Licensee has reached 50 percent CSG ceiling as stipulated in Public Law 94-192, 47 USC Subsection 396(6)(B): "No distribution of funds pursuant to this subsection shall exceed, in any fiscal year, one-half of a licensee's or permittee's total non-Federal financial support during the fiscal year second preceding the fiscal year in which such distribution is made."

EDUCATIONAL BROADCASTING FACILITES PROGRAM

Profile of Program Requests FY 63-78

Fiscal Yr	Pending Applications		Applications Rec'd		Applications Considered in FY		Grant Awards		Authority
	No.*	Amount**	No.	Amount**	No.	Amount**	No.	Amount**	(P.L.)
1963-1967	--	--	235	$61.0	235	$61.0	161	$32.0	87-447
1968	74	$29.0	0	--	0	--	0	--	90-129
1969	74	29.0	51	8.0	125	37.0	15	3.2	90-129
1970	108	30.0	21	5.0	135	39.0	40	5.4	90-129
1971	89	25.8	96	19.7	185	45.5	57	11.0	91-97
1972	119	30.9	76	11.0	195	42.2	69	13.0	91-97
1973	77	18.9	84	17.2	161	36.1	78	13.0	91-97
1974	87	21.9	121	26.2	208	48.1	74	15.7	93-84
1975	114	25.4	79	18.1	193	43.5	62	12.0	93-84
1976	100	31.1	121	18.1	221	49.2	73	12.9	93-380 Sec.414(a)
1977	92***	21.3***	213	40.1	268	52.9	100	14.0	94-309
1978	144	29.3 (as of 1/17/78)							93-380 Sec.414(a)

HISTORY OF GRANT AWARDS -- Educational Broadcasting Facilities Program

FY	ETV ACTIVATIONS			ETV EXPAND/IMPROVE			RADIO ACTIVATIONS			RADIO EXPAND/IMPROVE			TOTALS	
	No. of Grants	Fed. Funds**	Av. Grant	No. of Grants	Fed. Funds**	Av. Grant	No. of Grants	Fed. Funds**	Av. Grant	No. of Grants	Fed. Funds**	Av. Grant	No. of Grants	Federal Funds**
63-67	92	$19.98	.22	69	$11.99	.17	n/a	--	--	n/a	--	--	161	$31,971,011
68	--	--	--	--	No funds appropriated this fiscal year		--	--	--	--	--	--	--	--
69	7	2.01	.29	6	1.10	.18	2	$.10	$.05	--	--	--	15	3,210,619
70	11	2.70	.25	10	1.84	.18	9	.52	.06	10	.34	.03	40	5,402,634
71	12	4.37	.36	18	4.96	.27	12	.81	.07	15	.86	.06	57	11,000,000
72	10	3.30	.33	33	8.18	.25	7	.58	.08	19	.94	.05	69	13,000,000
73	8	3.20	.40	40	7.90	.20	10	.89	.09	20	1.00	.05	78	12,999,999
74	6	2.87	.48	41	11.08	.27	4	.34	.08	23	1.38	.06	74	15,675,000
75	5	2.19	.44	36	8.64	.24	10	.73	.07	11	.43	.04	62	12,000,000
76	6	2.56	.43	37	8.17	.22	9	.94	.10	21	1.30	.06	73	12,982,575
77	7	2.42	.35	40	7.89	.20	9	1.06	.12	44	2.63	.06	100	14,000,000
78														
Total	164	$45.60	--	330	$71.75	--	72	$5.97	--	163	$8.88	--	729	$132,241,838

* Does not include applications returned during processing in previous fiscal years.
**Amounts in millions.
*** Of the pending applications, 6 were returned and 31 not reactivated for consideration this fiscal year.

EDUCATIONAL BROADCASTING FACILITES PROGRAM

Profile of Program Requests FY 63-78

Fiscal Yr	Pending Applications		Applications Rec'd		Applications Considered in FY		Grant Awards		Authority
	No.*	Amount**	No.	Amount**	No.	Amount**	No.	Amount**	(P.L.)
1963-1967	--	--	235	$61.0	235	$61.0	161	$32.0	87-447
1968	74	$29.0	0	--	0	--	0	--	90-129
1969	74	29.0	51	8.0	125	37.0	15	3.2	90-129
1970	108	30.0	21	5.0	135	39.0	40	5.4	90-129
1971	89	25.8	96	19.7	185	45.5	57	11.0	91-97
1972	119	30.9	76	11.0	195	42.2	69	13.0	91-97
1973	77	18.9	84	17.2	161	36.1	78	13.0	91-97
1974	87	21.9	121	26.2	208	48.1	74	15.7	93-84
1975	114	25.4	79	18.1	193	43.5	62	12.0	93-84
1976	100	31.1	121	18.1	221	49.2	73	12.9	93-380 Sec 414(a)
1977	92***	21.3***	213	40.1	268	52.9	100	14.0	94-309
1978	144	29.3 (as of 1/17/78)							93-380 Sec.414(a)

HISTORY OF GRANT AWARDS -- Educational Broadcasting Facilities Program

	ETV ACTIVATIONS			ETV EXPAND/IMPROVE			RADIO ACTIVATIONS			RADIO EXPAND/IMPROVE			TOTALS	
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72	10	3.30	.33	33	8.18	.25	7	.58	.08	19	.94	.05	69	13,000,000
73	8	3.20	.40	40	7.90	.20	10	.89	.09	20	1.00	.05	78	12,999,999
74	6	2.87	.48	41	11.08	.27	4	.34	.08	23	1.38	.06	74	15,675,000
75	5	2.19	.44	36	8.64	.24	10	.73	.07	11	.43	.04	62	12,000,000
76	6	2.56	.43	37	8.17	.22	9	.94	.10	21	1.30	.06	73	12,982,575
77	7	2.42	.35	40	7.89	.20	9	1.06	.12	44	2.63	.06	100	14,000,000
78														
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Mr. LOOMIS. As you know, Senator, at the present moment, the Corporation is not responsible for the Facilities Act. That is being administered, has been administered since inception in 1962 by the Department of Health, Education, and Welfare, the—one of the proposals, a very key proposal in the New Administration Act, which we previously discussed, would be to change the responsibility for that function from HEW to the Corporation.

Since we are a private company, and HEW is obviously Government, this is somewhat difficult to do without endangering our private status. What we will probably have to do, is have the authority for the HEW agency cease, then, as a separate entity of additional authorization given to the Corporation; obviously, additional funds to go with it.

This is being worked out with HEW and, obviously, the administration whose idea it was.

Senator BURDICK. Very good.

ALLOCATION OF NATIONAL PROGRAM PRODUCTION FUNDS

In legislation sent to the Congress, President Carter has proposed that 25 percent of the appropriation be reserved for the national programing purposes.

Under your projections for fiscal year 1981, what percentage of CPB's budget would go toward national programs?

Mr. LOOMIS. Under a projection and series of assumptions at the money level that we request, of the $210 million, it would come out almost precisely at 25 percent. The money that we see as a minimum would be about 22 percent.

But as we discussed previously, this budget has an unallocated reserve of $5.7 million. On the assumption that 80 percent of that will end up in programing, which is a very valid assumption, it more or less bears out what we have been doing.

That would bring the total to 24.8, which is 25 percent. And these are as accurate as you can be 2 years in advance. It is based on some assumptions and judgments which we think are firm.

We feel that a majority of the funds should go directly to the stations. This is part of the decentralization policy. Presently, that's about 58 percent. We think that is about the right amount, and these figures I gave you are based on that assumption.

It is also based on the assumption that the satellite will be in operation, and what the costs of that will be, and we think that is a pretty firm assumption. That totals the $20 million I have mentioned to you. And it is on the assumption that the staff of the Corporation will stay virtually the same, and only go up with the cost of inflation.

And we have assumed an inflation figure of 5 or 6 percent. Those are assumptions. All of these projections can only be as valid as those assumptions.

Now, the point also is that this is at the discretion of the board of the Corporation, working in cooperation and conjunction with the Public Broadcasting Service and National Public Radio.

So that, at the time, if there is a consensus that these figures should be changed, obviously, the board, can and will, or would change them.

I should point out that the board, as a matter of principle, is concerned with any specific presentation or dollar amounts in the legislation, because the more such allocations, the more this approaches a line item Federal budget and the more it approaches a Federal budget, the more danger there is to our private status. And if our private status is endangered, then the whole activity is endangered because of the first amendment problems of separation of Government and domestic communications.

So, it is a complex and philosophical problem. We have no disagreement at all on the very high priority of programing. We will do everything we can to put every nickel we can into the programing.

It is rather a philosophical problem with having a fixed percentage in the act that we have been discussing with the White House.

AMOUNTS OF NON-FEDERAL FUNDS RAISED

Senator BURDICK. The present authorizing legislation requires that each Federal dollar be matched by $2.50 in non-Federal funds, as we have discussed. What is the maximum amount of Federal funds that CPB could qualify for in fiscal years 1977 and 1978, and does this compare with your appropriation for those years?

Mr. LOOMIS. 1977 was 103, and it was just about on it. I think it was a million short, a very short amount, almost precisely. The 1978, as we discussed, was $12 million short, and that's why we are asking for the supplemental.

We suspect that 1979 will be about $20 million short. We would have every intention of requesting a supplemental in 1979, once we have the figures.

PUBLIC BROADCASTING SATELLITE INTERCONNECTION SYSTEM

Senator BURDICK. During fiscal 1977, the Corporation began construction of a satellite interconnection system and completion of that project will allow for greatly improved public radio and television service.

What is the anticipated completion date for the project and in what way will the satellite interconnection system be used to improve public broadcasting services?

Mr. LOOMIS. They are two separate projects, television and radio. The television interconnection will start operations next month in the southeast, from Virginia to Texas. It will be completed December 31, 1978, of this year, going in sections across the country. Radio, that the board just approved the construction of last month, will be operational a year later, at the end of 1979, beginning of 1980. It is going to make a major difference in public broadcasting.

In the case of television, we now have one telephone line that goes across the country. That means that each television station can receive only one television program at a time. We have to have delay centers in the Rocky Mountains and in Los Angeles for taping and delaying 2 or 3 hours because of the time delays.

The telephone line goes through many stops. And as you are well aware, in North Dakota or anywhere else, the more stops they go through, the greater the chance of curbing the signal, sometimes breaking down the signal, the quality of the signal is hurt. But the

important thing with the satellite is that for less money, higher quality, we will be able to provide four programs simultaneously to every station, not only in the lower 48, but also in Alaska, and in Hawaii, and in Puerto Rico, and the Virgin Islands.

The offshore spots, we have never been able to connect live. We are now doing it in Alaska through a NASA satellite but that is a temporary thing that is only by going for a few months. This will help bring Alaska and Hawaii in and the Caribbean into day-to-day communications with the lower 48.

Now, four programs per station means that each local station will have a choice that it does not now have. It means that there will be more programs available to it. And the station manager will have to do much more thinking and making many more difficult decisions.

The licensees, television stations, and PBS have been working all summer, working out a system that will determine how these four are scheduled. Right now, with the single telephone line, PBS schedules that. That is one of the services it does for its member stations.

The way the licensees and PBS work this out, PBS will schedule two of the four for the regular main national service. The other two will be scheduled by a different group of stations to provide the additional programs intended for special audiences.

PUBLIC BROADCASTING SATELLITE SYSTEM AND SPECIAL AUDIENCE PROGRAMING

Now, special audiences may be elderly, they may be Indians, they may be opera lovers, they may be anything that is a special audience. One of the easiest ones to see would be Spanish language where you have some stations need a lot of Spanish programs because they have high concentrations of Spanish-speaking people in their population. Others need very little. Yet, the Spanish concentrations are in spots all over the United States, not just in a region.

So, the satellite is the perfect way to have significant amounts of Spanish language programing without hurting the rest of the stations that don't need that much.

We will have five uplinks scattered around the country in addition to the major uplink here. And there are 11 Western Union links we will have access to. That means that programs can originate around the country. This is useful, not only in public affairs, but also for cultural events. Now, we have live from Lincoln Center in New York, which is very nice. But it is physically impossible to have live from Utah, or live from North Dakota, or live from almost anywhere else except the west coast.

And we think that is a pity, because we think that many of these cultural events can, and should, be seen wider than the particular locations where they are occurring.

To give you an example of the kind of programs that will be possible in the future; we did this on an experiment a few months ago in one station.

You remember, there was the long, 3-, or 4-day-long meeting of the National Women's Conference in Houston, Tex., where women came from all over the world. We got a proposal from a station in

Los Angeles that, if we could get the coverage of the events in Houston to Los Angeles, they would want to make a local program out of it by having local women there discussing and commenting on what was being done in Houston.

Our satellite was not operational, but we set up a Rube Goldberg arrangement with all kinds of things, which was very expensive, but it worked, and the station ran about 10 hours of local programing on the women affairs.

We suspect that if the satellite had been available, first of all, we could have distributed the coverage from Houston nationwide at no cost. And you then get varying estimates as to whether 5 stations or 50 stations would have used it—or parts of it—for their local coverage.

PUBLIC RADIO SATELLITE SYSTEM

In the case of radio, the satellite is going to make even more of an impact. Radio now has a single line, monaural, and only have regular telephone quality. You cannot put high-quality music over it. So it can only be used for public affairs, basically. All the music, all the cultural events, have to go by tape. Even though in theory this is a 5-kilocycle line, by the time it gets to the Northwest, it is, maybe, 2½ or 3. It is a lousy line.

With the satellite, radio will have something like 8 channels, somewhere between 4 and 8. We are negotiating now on that point. There can be stereo, they will all be high quality. Again, this will permit diversity. This will permit the coverage of local cultural events. It will allow special programing.

For example, in the case of radio, there is a very special audience, the blind, or the visually handicapped, where reading on the radio provides them a service that you cannot get any other way. Now that has to be fragmented, and each city that does it has to read Time magazine, or whatever they are reading, rather than have a single source reading it at once.

In the case of television, it will permit use of closed captioning for the deaf, which is again a special service for about 10 million very special people.

PUBLIC BROADCASTING SATELLITE AND LOCALISM

The satellite will result in more local control, more diversity, and more regional coherence in the present system. So it will have an impact far greater than just the technical aspects. It will mean that terrestrial distance is immaterial. Fargo is just as close to Hawaii as it is to Bismarck; exactly the same. They are all 46,000 miles apart. You go up 23,000 and come back 23,000, no matter where you are.

PUBLIC BROADCASTING SATELLITE SYSTEM CONFIGURATION

Senator BURDICK. Do you own your own little satellite?

Mr. LOOMIS. No. We are leasing for television 4 transponders, and for radio, half a transponder, from Western Union. What we have is our own ground satellite. Each television station, one in Fargo, and everywhere else, will have their own receiving station. They can get, for free, the programs that we are paying for.

What it will also do, is permit them to get programs on the other 8 transponders. There are 12 on the bird. So that somebody else may wish to sell them something. An independent producer may have a program. Now it is very difficult for that independent producer to sell, to get it around. It is hard for him to show it. It is hard for him to make a sale. He can get transponder 5 for an hour, and then that program is nationwide.

Senator BURDICK. How many ground stations do you have?

Mr. LOOMIS. 150 television and about 170 radio. It is a unique system. It is the largest ground environment in the world, and it is going to completely change the face of public broadcasting. And we think, therefore, it will impact seriously, and we think, constructively, on commercial broadcasting as well.

SUBMITTED QUESTIONS

Senator BURDICK. Other members of the committee have some prepared questions here and I am sure there will be more. We will submit them for your answers.

Mr. LOOMIS. Thank you, Mr. Chairman.

Senator BURDICK. We thank you.

Mr. CARDWELL. Thank you, sir.

[CLERK'S NOTE.—The justification material for this account appears in the House fiscal year 1979 Labor-HEW Appropriations Subcommittee hearing record.]

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing.]

PUBLIC BROADCASTING FINANCING ALTERNATIVES

QUESTION:

Mr. Loomis, you are quoted in this week's U. S. News and World Report as supporting a plan where the federal government would charge fees for the right to use a television broadcast frequency. These fees would be used to support the public television system.

Can you expand on your suggestion?

ANSWER:

Most other users of public resources and assets pay a fee. For example, to mine or drill on public land or the continental shelf, or to cut timber in public forests, etc. requires a lease from the government. The fees paid are usually determined through the bidding process.

It would seem logical and consistent, therefore, to extend the principle of charging fees to the use of the public radio and television spectrum for private commercial use.

A separate issue would be the use of such funds. There appear to be two obvious alternatives. One would be to place all funds generated into the Treasury as part of the general fund. The other would be to make a portion of

the funds generated available for public broadcasting.

It is clear that public broadcasting is grossly underfinanced. Public broadcasting's annual income is now less than $450 million, while commercial broadcasting's income is more than $7 billion. Yet, too great a reliance on any single source of funds -- especially federal funds -- can endanger public broadcasting's independence. The current law calls for the federal government to match non-federal support of public broadcasting at a ratio of one federal dollar for each $2.50 in non-federal funds. This is a good principle since it is based on the degree of support from all the varied users of public broadcasting. I would like to see the ratio changed to $1 in federal funds for each $2.00 in non-federal funds. In other words, the federal appropriation would provide one-third of the income.

If the federal government were to appropriate a significantly greater share, however, I believe it would increase public broadcasting's vulnerability to undue interference. Having all income tied directly or indirectly to the ability to raise non-federal income would also put pressure on public broadcasting to stress programs which

would most increase their income at the expense of more specialized programs for unique audiences.

If the license fee from the use of commercial frequencies were to be paid directly to public broadcasting in addition to the present system of matching federal funds, the federal share could be increased without increasing vulnerability to federal interference and without distorting program judgements.

I would like to see income sources divided along the following lines: 50% ($500 million) from non-federal sources; 25% ($250 million) federal appropriation at a 1 to 2 ratio; and 25% ($250 million) license fees from the commercial broadcasters.

I believe these levels of financing are obtainable and $1 billion would permit a vastly improved public broadcasting system.

SALARIES OF CPB TOP TEN OFFICIALS

QUESTION:

What are the top ten salaries paid to CPB employees?

What types of in-kind compensation and service "perks" do these employees receive?

ANSWER:

As of January 26, 1978 the top ten salaries were as follows:

1. 70,000
2. 64,000
3. 55,000
4. 55,000
5. 53,000
6. 50,000
7. 49,612
8. 49,556
9. 49,000
10. 45,094

Six officers receive the following:

1. free parking
2. complete physical examinations
3. life insurance - double basic salary-premium paid by CPB
4. health insurance - 100% of individual employee costs paid by CPB (no CPB-paid family health benefits)
5. disability, dismemberment, loss of sight insurance
6. 20% by CPB towards TIAA-CREF
7. four weeks vacation

Positions 7, 8, 9 and 10:

1. life insurance - double basic salary - premium paid by CPB
2. health insurance - 100% of individual employee costs paid by CPB(no CPB paid family helath benefits)
3. disability, dismemberment, loss of sight insurance
4. 10% by CPB toward TIAA-CREF
5. three weeks vacation (first three years)
6. four weeks vacation (start of fourth year)
7. career investment programs (courses)

There is one leased automobile available for use by the President. In addition, this car is used to transport Board members and CPB staff on Corporate business.

EEO ENFORCEMENT AND PUBLIC BROADCASTING

QUESTION:

In his message to Congress on the reauthorization of public broadcasting legislation, President Carter said that he would later designate a federal agency to enforce the civil rights statutes applying to recipients of CPB funding.

What is the status of that -- has he named the agency yet?

Did CPB make a recommendation as to the proper agency?

ANSWER:

It is my understanding that a Civil Rights task force formed for the purpose of strengthening the enforcement of civil rights statutes applying to public broadcasting has submitted a report to Chairman Van Deerlin of the House Communications Subcommittee. The task force recommends that the primary enforcement mechanism for civil rights in public broadcasting be the license renewal process of the Federal Communications Commission.

The Corporation agrees with this recommendation, and originally suggested that the license renewal process was the appropriate mech-

anism for enforcement of civil rights statutes. We believe that a rigorous renewal process can serve as a form of "precertification" for the purpose of awarding CPB grants.

CPB has cooperated and will continue to cooperate with the appropriate federal agencies by providing relevant employment and other information in this area. We feel that any posture which may involve enforcement of the civil rights statutes would violate CPB's private, nongovernmental status.

COSTS OF QUARTERLY EEO REPORTS TO CONGRESS

QUESTION:

During Fiscal 1978, the Corporation was required to submit quarterly reports on the hiring of women and minorities.

What was the total cost of preparation of these reports?

ANSWER:

We have estimated that the cost of gathering the data, analyzing it, and publishing the reports amounted to approximately $100,000 in FY 1977. With the change in the reporting requirements made by the Senate starting this year, the costs of the two reports required in January and May should be about $50,000.

PUBLIC BROADCASTING AND AFFIRMATIVE ACTION

QUESTION:

Can you briefly summarize the Affirmative Action measures initiated by the various public broadcasting organizations during the past year?

ANSWER:

1. The national public broadcasting organizations established the Coordinating Committee for Human Resources to coordinate all existing and to recommend new activities in support of EEO; also, to oversee the development of long-range planning in human resources. Members of the Committee are members of the Boards of Directors of CPB, NAEB, NPR and PBS.

2. To date, CPB has awarded 221 women's and minority training grants designed to move more women and minorities into public broadcasting and to provide upward mobility for those already in the industry.

3. During calendar year 1977, four Human Resources Development Seminars were conducted around the country for key station personnel in the areas of personnel management, recruitment, hiring, promotion, EEO and affirmative action.

4. The CPB Public Broadcasting Fellowship was awarded to a highly qualified mino-

rity producer for special studies at the British Broadcasting Corporation and in California.

5. CPB and NAEB completed the design and implementation of PACT, a professional job-matching service focusing on placement of women and minorities in public broadcasting.

6. Career Development Workshops were held for women at the national organizations and in the industry.

7. CPB, with the cooperation of NPR, NAEB, and PBS, is beginning a long-range planning project in the area of human resources development, with a principal goal of enhancing the status of women and minorities in public broadcasting.

8. CPB's Board of Directors in 1977 adopted seven significant resolutions setting new policies in the areas of EEO, affirmative action, minority ownership, use of minority and female vendors in its operation, and participation of women and minorities in programming as a factor in funding decisions.

9. CPB's "Equal Access," a newsletter to communicate to women information on special projects, news, policies, career opportunities, se-

minars, and other information, was created in 1977 and is being published bi-monthly.

10. In June 1977, PBS' Board of Directors adopted a set of proposals designed to improve the status of women and minorities in the public broadcasting industry. In the area of employment, the proposals included:

- Establishment of an EEO Task Force to assist local stations with EEO problems
- Development of a nationwide list of minorities and women qualified to enter public broadcasting at professional, technical, and managerial levels; tracking openings for positions; encouraging the involvement of women and minorities in these job categories
- Provision of financial assistance to stations for activities related to recruitment of women and minorities; seeking funding for job training; assisting fund raising for training at the local level
- Sharing information between and among the stations which would be of help in setting goals and tracking employment trends and records

- Encouraging stations to seek out minority and female Board members
- Charging the President and senior staff of PBS with the responsibility to support federal efforts to coordinate public broadcasting EEO enforcement among federal agencies

11. Related to EEO are several PBS proposals concerned with the area of programming and promotion, which are designed to ensure fairness and involvement of women and minorities in public broadcasting programs.

12. In the area of public television self-evaluation, PBS proposes to undertake these tasks:

- Periodically reassess discrepancies between the percentage of women and minorities in public television and those for the work force as a whole ... and set systemwide goals for eliminating those discrepancies
- Develop a file of affirmative action plans from every station; assist those not having plans to develop them
- Monitor stations' problems with federal agencies
- Seek from stations, information on special

efforts in programming, training and employment; relate to the Congress information on such efforts

- Establish an annual award to honor the station or stations making the greatest contribution to the enhancement of minorities and women in employment or programming

13. NAEB's management development program, supported by CPB and conducted by faculty of Harvard University, provides excellent management training at two seminars each year. Other instructional courses and seminars provide training in a wide variety of technical and management areas. As part of its total training effort, NAEB annually conducts a survey of training needs.

14. NAEB is working to expand the job-matching function described above to include development of career education materials and programs, more extensive counseling services, and related activities focusing on new career opportunities for women and minorities in public broadcasting.

CPB'S EEO HOTLINE

QUESTION:

What has been your experience with the Equal Employment Opportunity Hotline?

ANSWER:

The CPB/HRD toll-free EEO Hotline was initiated on January 15, 1977.

The Hotline was designed to provide quick and easy access by station management and staff to CPB on matters relating to EEO, training and personnel related problems.

For the twelve months, 1/1/77-1/1/78, the total number of calls was 128. A breakdown by categories is listed below:

CALL HISTORY BY CATEGORY

EEO/Affirmative Action	48
Training Grants	51
Job Opportunity	4
Fund Raising	1
HRD Seminars	1
Minority Participation in Public Broadcasting Study	2
Publications Request	4
Legal	2
FCC or Technical	7
CPB Qualification Criteria	4
Auditing	1

TV Activities	2
Minority Task Force	1
TOTAL CALLS	128

Because of the small number of calls per month (average 8-12), the toll free number was disconnected on January 20, 1978 and replaced with a regular number to which stations could call collect. This decision should result in some economy while continuing service to stations.

RECRUITMENT AND PLACEMENT OF WOMEN AND MINORITIES IN PUBLIC BROADCASTING

QUESTION:

What success have you had with the Labor Exchange Service in placing women and minorities in jobs in Public Broadcasting?

ANSWER:

The Service has just been implemented and is still in its organizational stage. Requests for Proposals (RFP's) have gone out to minority and women's job banks. From the responses, several proposals will be selected for funding and hook-up with the national service.

During this implementation stage, one minority and five non-minorities have been placed by the Service.

Of 31 people counseled, 12 were minorities.

Of individuals already on file (many from the earlier NAEB service) 70 are minorities and 170 non-minorities.

CPB'S REGIONAL HUMAN RESOURCES SEMINARS

QUESTION:

What has the series of Regional Human Resource Seminars produced?

ANSWER:

More than 75 key station representatives have participated in the seminar/workshop programs which have addressed EEO problems, affirmative action planning, EEO laws and regulations, personnel policies and procedures, and management problems.

Participants, at the opening session of each seminar, rate themselves on their "EEO knowledge" on a 1 to 5 scale. A significant majority of them represent themselves at the lower end of the scale. After the sessions, which conclude with an intensive EEO question and answer session, they see themselves as significantly stronger and more confident in EEO knowledge.

Evaluation of the seminars has been extremely positive. Many station personnel tell CPB

staff that the seminars provide the most comprehensive, helpful instruction in the area of EEO that they have experienced.

PUBLIC TELEVISION
SCIENCE AND NATURE-ORIENTED PROGRAMMING

QUESTION:

In August, 1977 CPB released its Public Television Survey which showed that viewers were generally satisfied with public television. However, the viewers stated that there was not enough nature and science programming.

What plans, if any, do you have to increase science and nature-oriented programming?

ANSWER:

CPB has allocated $500,000 to Ambrosino Productions for the production of a series called "People" which will be a science and anthropology series. Mr. Ambrosino was the creator of the popular "Nova" science series. An additional $500,000 has been allocated in FY 1979 as well for this series.

ADMINISTRATION'S PROPOSED TRANSFER OF
EBFP TO CPB

QUESTION:

The Administration's new public broadcasting legislation proposes to transfer the Educa-

tional Broadcast Facilities Program from HEW to the Corporation for Public Broadcasting.

Do you believe that this is a sound proposal?

Will this transfer improve the operation of this program?

ANSWER:

The Corporation concurs in the President's proposal to transfer and expand the Educational Broadcasting Facilities Program. It seems inherently sensible that this important public broadcasting support program should be tied to the entity which provides for support activities for all aspects of public broadcasting. CPB has, however, several concerns about the proposal.

1. CPB believes that care must be taken to preserve its status as a private non-profit organization. The details of the change in responsibility would have to be worked out in such a way so as not to compromise this status.

2. It is our intention to seek an authorization level of $60 million for this program. Such a level of support will allow for sufficient funds to meet the unmet needs of stations and allow for support of the new technologies and planning activities contemplated under the President's proposals.

The need for additional funding in this area is heightened by the arrival of the satellite interconnection system in 1979 and 1980 for television and radio. This system will encourage continued growth in the coverage of public broadcasting by providing more flexible distribution of programming services by using both broadcast and non-broadcast technologies.

PUBLIC BROADCASTING "DUPLICATION"

QUESTION:

The proposed public broadcasting legislation recommends that the Public Broadcasting Service be given greater responsibility for the development and production of television programs.

Do you believe that this will reduce some of the duplication for which Public Broadcasting has been criticized in the past?

ANSWER:

The Corporation for Public Broadcasting is responsible under the Public Broadcasting Act of 1967 with the development of national television programming and is authorized to award grants and contracts for the production and acquisition of programs. CPB performs this activity through a coordinated effort with the Public Broadcasting Service (among others) seeking advice and criti-

cism according to a procedure contained in an agreement of May 1973.

PBS is the scheduler of national programs for public television, managing a national interconnection system under contract with CPB. CPB supports the PBS staff, maintenance of the system, payment of the telephone tariffs, and related costs of the interconnection.

CPB and PBS, then, are two separately independent organizations whose functions flow from their respective missions. I do not believe that there is duplication, rather there is coordination and mutuality of interest which may give the appearance of overlap.

The current division of responsibilities provides for a system of checks and balances which ensures that no one person or organization can dominate the production and distribution of public broadcasting programs.

FACILITIES PROGRAM AND MINORITY ASSISTANCE

QUESTION:

The Administration has proposed changes in the Facilities Program to make assistance to minority controlled public television and radio stations a funding priority.

Does your budget reflect this new priority?

Exactly how do you plan to implement that goal?

ANSWER:

As you know, responsibility for the Facilities Program now rests with the Department of Health, Education and Welfare. Consequently, our estimates are preliminary and will be refined with more information and experience. Nevertheless, in our facilities estimates for 1979, we have tentatively allocated $250,000 for facilities planning. Some portion of those funds would be made available to assist minority groups interested in starting a public station. Since this estimate is only preliminary, it would be very difficult to describe exactly how we would implement this goal. As an example, in 1977 we provided funds for a Spanish speaking group to look into the possible purchase of a television station in Houston. Presumably this and other types of support would be offered in increasing the access of minorities to television and radio stations.

CPB VICE PRESIDENT FOR
HUMAN RESOURCES DEVELOPMENT

QUESTION:

You recently appointed a new Vice President for Human Resources Development. Does this position represent an upgrading of the

role of the Human Resources function at CPB? In what ways, specifically?

ANSWER:

The creation of an additional senior position at the Officer level in the area of Human Resources Development allows CPB to have one official who will concentrate on important issues affecting women and minorities and public broadcasting. Free from day-to-day administrative activities, the Vice President for Human Resources Development will participate in the development of policy and projects in such areas as programming policy and its impact on the treatment of women and minorities both on and off the air; working with minority and and women groups concerned about equal opportunity andpublic broadcasting; and the design of projects to assist in the recruitment, training, and development of women and minorities for public broadcasting.

As an officer, there will be a direct access to the Board of Directors in its deliberations in this area or any other which may impact upon it. In addition, this person sits on the Management Council, the group of officers plus the special assistant to the presi-

dent for legislative affairs which advises the president on important matters.

Thus, the creation of this position enhances the human resource development function at CPB through increased input in policy making, increased visibility and greater access to the Board of Directors.

ADMINISTRATION'S PROPOSALS FOR PUBLIC BROADCASTING

QUESTION:

CPB is currently advance-funded through 1980, the year the current authorizing legislation expires. The Administration had submitted a legislative proposal for a five-year reauthorization for Public Broadcasting.

Can you briefly summarize this proposal's major changes?

Does the Corporation for Public Broadcasting support the proposed legislation?

ANSWER:

The major changes contained in the proposal are as follows:

1. Proposes an authorized ceiling of $180 million in FY 1981; $200 million in FY 1982; and leveling off at that amount through FY 1985.

2. Reduces the matching ratio of non-

federal funds public broadcasting must raise to match future appropriations from $2.50 to $1.00 to $2.25 to $1.00.

3. Phases out four presidentially appointed members of the CPB Board to be replaced with members chosen by the public television and radio licensees.

4. Focuses CPB's critical role in programming on allocating categorical bloc programming grants to stations or independent entities (either directly or through PBS and NPR) and removes CPB from decisions on individual programs.

5. Transfers administration of the grant program for new and upgraded public broadcasting facilities from HEW to CPB; sets facilities grants priorities for reaching unserved citizens and helping minorities start public stations; opens this program to non-broadcast technologies; and expands eligible recipients to include educational, non-broadcast institutions.

6. Requires CPB to allocate 25% of future federal funds to a national program fund.

7. Requires CPB to keep track of other programming funds available from federal agencies

such as HEW and the National Endowments to provide an information clearing house for producers.

8. Removes the ban on editorializing for public stations not licensed to governmental entities.

9. Applies the federal laws against employment discrimination based on sex and race to CPB and its funding recipients.

10. Opens stations board meetings and financial statements to the public.

The Board of Directors generally endorses the President's proposals. However, the Board favors modification of certain aspects of the President's plan. The Board will seek higher authorizations based on the projections contained in the Tripartite Task Force on Long-Range Financing for Public Broadcasting (starting at $210 million in FY 1981, $230 million in 1982, $250 million in 1983, $275 million in 1984 and $300 million in 1985); a further reduction of the non-federal matching requirements to $2.00 to $1.00; and the avoidance of any further earmarking of federal funds.

CPB is currently reviewing the proposal in detail and will have a position in time for

the hearings scheduled by the Commerce Committee of both houses of Congress.

I would emphasize in closing, Mr. Chairman, that these differences, although important, are more a matter of degree than of critical substance.

NON-FEDERAL SUPPORT TO CPB

QUESTION:

The Corporation for Public Broadcasting has always depended upon several large foundations, such as the Ford Foundation, for large donations.

What were the five largest non-federal financial supporters of the Corporation last year?

ANSWER:

CPB received only three grants of significant amount in FY 1977. These were as follows:

EXXON CORP	$40,500
UPS FOUNDATION	$10,000
AGENCY FOR INSTRUCTIONAL TELEVISION	$ 4,000

The reason for the drop in non-federal contribution was the adoption of the Public Broadcasting Financing Act of 1975. Prior to that, CPB received annual appropriations

of which $5 million was made available on a one to one matching basis with CPB's non-federal income. Thus, non-federal contributions, particularly Ford Foundation support to the Station Program Cooperative and corporate underwriting of specific programs, were channeled through CPB in order to claim the match.

Under the current law, all non-federal income is matched by the federal government at a rate of one federal dollar for every 2.5 non-federal dollars. There is, therefore, no need to channel this money through CPB. The only requirement for the the match is that it be claimed by a public broadcasting entity.

NATIONAL MEDIATION BOARD

STATEMENT OF GEORGE S. IVES, CHAIRMAN

ACCOMPANIED BY:

DAVID H. STOWE, MEMBER
ROBERT O. HARRIS, MEMBER

BUDGET REQUEST

Senator BURDICK. Is the witness for the Mediation Board here? All right.

Now, we will have testimony on the $3,969,000 fiscal year 1979 budget request from the National Mediation Board. Last year's comparable appropriation was $3,913,000, so the increase is just $56,000.

The Board handles labor-management disputes, as well as union representation disputes, in the railroad and airline industries.

The lead witness is Board Chairman George Ives. Please introduce your associates and proceed with your brief statement.

Mr. IVES. My colleague on my left is David Stowe; on my right, Robert Harris.

We appreciate this opportunity to be with you. I would, Mr. Chairman, with your permission, like to read a very brief summary and submit my overall statement.

Senator BURDICK. Very good.

[The statement and biographical sketch follow:]

STATEMENT OF GEORGE S. IVES, CHAIRMAN, NATIONAL MEDIATION BOARD

MR. CHAIRMAN, MEMBERS OF THE SUB-COMMITTEE.

I appreciate this opportunity to appear before your Sub-Committee today concerning the National Mediation Board's budget for fiscal year 1979.

The Railway Labor Act, first established by Congress in 1926, and composed in its present form in 1934, is administered by the National Mediation Board. This statute is designed to provide orderly procedures for the settlement of labor disputes in the railroad and airline industries. Additionally, the National Mediation Board handles questions of representation as they arise in these industries and interprets agreements made in mediation.

The National Railroad Adjustment Board was also established in 1934 under the Railway Labor Act for the purpose of disposing of grievances arising under the terms of collective bargaining agreements in the railroad industry.

The section of the Railway Labor Act which deals with the disposition of what are termed "minor disputes" was amended by the 89th Congress in PL 89-456, approved June 20, 1966, to permit the decentralization, in some measure, of grievance disposition machinery. Under Public Law 89-456, new grievances and those which have been on the docket before the National Railroad Adjustment Board for a period of at least twelve months may be referred to a local board of adjustment on each individual railroad for expeditious disposition.

Thus, under the Railway Labor Act, Congress has provided for the railroad and airline industries specific machinery and procedures for the adjustment of labor management disputes, i.e., for mediation and the investigation of questions of representation; for emergency disputes procedures

and arbitration; as well as for boards of adjustment and a National Railroad Adjustment Board to handle individual and group grievances arising under agreements between management and the labor organizations concerned.

The total amount requested to administer the Railway Labor Act is $3,969,000, an increase of $56,000 over the amount available for fiscal year 1978.

The budget justification, as submitted, is designed to identify the functions just discussed and the amounts requested for each.

First, Mediation, which is concerned with the making andamending of agreements, and the representation function. These activities are the responsibilities of the National Mediation Board.

A total of $1,996,000, an increase of $60,000 over the amount available for 1978, is requested to finance the Board's activities in fiscal year 1979. This increase is due to mandatory items.

The second activity of the Board relates to Voluntary Arbitration and the investigation of critical disputes through the emergency board procedure. In arbitration proceedings, disputes are voluntarily submitted by labor and management to a neutral party for final and binding decision. The Board hopes it will be able to persuade management and labor to more frequently utilize the arbitration provision of the Act to dispose of contract disputes.

Emergency boards are created pursuant to section 10 of the Act when the Board notifies the President that a dispute threatens substantially to interrupt interstate commerce to a degree such as to deprive any section of the country of essential transportation. The President may create an emergency board to investigate and make recommendations as to the settlement of the dispute involved. The Board is

not able to anticipate precisely the total expenditures for these arbitration and emergency board activities, and it is therefore, advisable to have a small reserve available for emergency situations.

For fiscal year 1979, the Board is requesting a total of $144,000, the same amount as is available in 1978.

The third activity carried under this appropriation is the adjustment of railroad grievances. This activity pertains to the operations of the National Railroad Adjustment Board mentioned earlier, which is concerned with the interpretation and application of wage and rule agreements in the railroad industry as well as boards of adjustment established by individual carriers and organizations for the same purpose. In this submission all expenditures relating to the settlement of grievance disputes, that is special boards of adjustment and public law boards expenses, have been included in this activity.

For this activity, the amount of $1,829,000 is requested for fiscal year 1979. This is $4,000 less than the amount available in 1978.

In summary, the National Mediation Board is requesting a total of $3,969,000 to finance activities under the Railway Labor Act for fiscal year 1979. This is an increase of $56,000 over the amount available for fiscal year 1978.

Biographical Sketch

NAME: Honorable George S. Ives

PRESENT POSITION: Chairman, National Mediation Board, Wash., D. C., 20572

BORN: January 10, 1922, Brooklyn, New York

SCHOOLS: Dartmouth College, 1943, A. B.
Cornell University Law School, 1949, LLB.

CAREER HIGHLIGHTS:

1943-46 -- U. S. Navy Reserve (Lt. S. G. Ret)

1949 -- Admitted New York State Bar

1949-50 -- Legal Asst. to the then Chairman of the National Labor Relations Board, Paul Herzog.

1950-53 -- Associate Attorney with Simpson, Thatcher & Bartlett, NYC.

1953-58 -- Admin. Asst. & Legal Counsel to the former U. S. Senator, Irving M. Ives (N.Y.)

1959 -- Admitted to Bar of the District of Columbia

1959-69 -- Private practice of law & labor arbitration, Wash., DC

1969 to Present -- Appointed by the President and confirmed by Senate as a Member of the National Mediation Board. (Reappointed in 1972 and 1975). Served as Chairman in 1970, 1971, 1974 and 1977.

PROFESSIONAL MEMBERSHIP:

American Bar Association; New York State Bar Association; District of Columbia Bar Association, National Academy of Arbitrators; American Arbitration Association and the Society of Professionals in Dispute Resolution (SPIDR).

STATEMENT OF GEORGE S. IVES

Mr. IVES. In 1926, Congress enacted the Railway Labor Act, and the mission of the National Mediation Board is to administer this act, which provides specific procedures and methods for the adjustment of labor-management disputes for the railroad and airline industries. These include mediation and the investigation of questions of representation; emergency disputes procedures and arbitration; and boards of adjustment, and a National Railroad Adjustment Board to handle individual and group grievances arising under agreements.

In order to continue these activities, the National Mediation Board is requesting $3,969,000 for fiscal year 1979, an increase of $56,000 over fiscal year 1978.

The National Mediation Board does not propose any changes in its programs or activities in administering the Railway Labor Act.

That completes the summary. I will, of course, answer any questions you may have.

UNFILLED POSITIONS

Senator BURDICK. I note the charges for salary and expenses has authorization of 72 positions, yet the net cost of full year funding for fiscal year 1979 will be for 69 positions.

Why is this difference?

Mr. IVES. This results from our meetings with OMB last year, last summer. At that time, they felt they would authorize the 72 positions but would not fund 3 of them unless they were needed.

I might say, at this point in time, that we have had a tremendous increase in our representation hearings and we are faced with a situation where we may need to hire an additional hearing officer and a couple of additional mediators to work in that area. So, consequently, the funding of these positions would be in our best interest at the present time.

Senator BURDICK. As I understand it, the Board has conducted as many hearings between the beginning of this fiscal year and December 31, 1977, as it did in the full previous fiscal year.

In traveling across the country, conducting hearings, and the work of your agency, is the level of funding for travel expenses adequate?

Mr. IVES. Again, my response to the previous question is in line with this question also. The answer is no. Those earlier estimates made in this submission do not reflect the additional increase in hearings days.

Senator BURDICK. How quickly are you able to resolve disputes in elections, and how much has your workload changed in recent years compared to the size of your staff?

Mr. IVES. I would answer it this way, Senator. In the representation case area, I believe that our average for all representation cases, including those involving hearings, and without, is approximately 69 days from the date of docketing to the issuance of a decision by the Board.

As to mediation, of course, there are all types and varieties of cases. But I believe a figure that is fairly accurate, would be days

of mediation on an average case, which would be approximately 26 work days.

Senator BURDICK. In the average case?

Mr. IVES. The average case. Of course, we have the—we have a great variance between the types of mediation in the airline and railroad industry.

Mr. STOWE. That is mediation days. Not from beginning to end.

Senator BURDICK. I understand. That is sitting down at the table.

Mr. IVES. After a mediator has been assigned.

VOLUNTARY ARBITRATION

Senator BURDICK. How do you go about persuading management and labor to more frequently utilize voluntary arbitration to dispose of contract disputes and what impact has your degree of success in getting voluntary settlements had on your budget?

Mr. IVES. Section 5 of the Railway Labor Act requires us, in all mediation disputes, to proffer arbitration to the parties, if we fail, mediation has failed. If they do not agree to arbitrate under our act, then, within 30 days. they are entitled to engage in self-help, except for the emergency procedures in section 10 of the act. We have used the proffer of arbitration very often to really encourage parties to mediate rather than use it merely as a stepping stone to release under the act.

Also, the act contains voluntary arbitration provisions in section 7 which have been very useful. And we now have, I might say, in the airline industry, a substantial number of contracts in which the parties have expedited mediation procedures. At least a half-dozen of these contain voluntary arbitration of the unresolved issues. We hope this might be a growing trend.

In the railroad industry, there has been use of voluntary arbitration in national agreements with UTU and other organizations, and we make every effort to encourage it because, very frankly, it is helpful to all concerned, voluntary arbitration as opposed to compulsory arbitration.

QUESTIONS SUBMITTED BY SENATOR BURDICK

Senator BURDICK. We may have some more questions for you. We will direct them by mail.

Mr. IVES. Thank you sir.

Senator BURDICK. Thank you.

[CLERK'S NOTE.—The justification material for this account appears in the House fiscal year 1979 Labor-HEW Appropriations Subcommittee hearing record.]

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing.]

DEVELOPING BUDGET ESTIMATES

Q. How do you forecast and budget for expected intake of cases nearly two years in the future, as required in preparing your appropriation request?

A. When projecting the caseload, which contains both mediation activities and representation elections, the Board relies mainly on past experience. We look at the preceding year's caseload; we look at the cyclical patterns of collective bargaining and organizational activity which occur in both the railroad and airline industries; and we then adjust the worload projections to reflect new organizational drives which might occur.

While it is possible to anticipate the caseload regarding national bargaining in the railroad industry, bargaining concerning local issues, on the individual railroads, is less susceptible to prognostication. The incidence of local issues is unpredictable and since the requisite section 6 notice may be served under the Railway Labor Act at any time, caseload prediction in this area is hazardous at best.

In addition, with a two-year budget cycle, it is not possible for the Board to accurately anticipate changes in its administrative needs. At the present time, such changes are being caused by the changing role of all administrative agencies and the Board's desire to properly respond to the newer types of public requests which have been authorized by Congress.

THE MEDIATION AND ADJUDICATION FUNCTIONS OF THE BOARD

Q. For airlines and railroads, the National Mediation Board combines functions performed separately by the Federal Mediation

Service and the NLRB -- to both mediate and adjudicate disputes.

What problems do you have combining both mediation and adjudication functions in one organization?

A. It is true on a theoretical basis that the Board's quasi-judicial functions in the resolution of representation disputes are not completely compatible with its mediation functions. At the staff level this dichotomy continues to exist since at the present time mediators also must function as investigators in representation disputes. However, the recent addition of full-time hearing officers to conduct public hearings in representation disputes has enabled the Board to limit mediator involvement in representation disputes. And, as indicated earlier, if the additional positions which have been authorized are funded, it will be feasible to further separate these two primary functions of the Board at the staff level.

NEW POSITIONS

Q. Have you filled the five new mediator positions approved in last year's budget?

A. The five mediator positions authorized by Congress were funded for only half a fiscal year (FY 1978), and, consequently, could not be filled as of this date. The Board is presently seeking qualified candidates and hopes to hire in the immediate future.

SUBCOMMITTEE RECESS

The subcommittee will recess until 2 p.m., Monday, when we will hear Department of Labor testimony on 1979 appropriation requests.

[Whereupon, at 11.55 a.m., Friday, January 27, the subcommittee was recessed, to reconvene at 2 p.m., Monday, January 30, 1978.]

DEPARTMENTS OF LABOR AND HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1979

MONDAY, JANUARY 30, 1978

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 2 p.m. in room S–128, the Capitol, Hon. Thomas F. Eagleton presiding.
Present: Senator Eagleton.

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

STATE AND LOCAL PROGRAMS

STATEMENT OF ERNEST G. GREEN, ASSISTANT SECRETARY FOR EMPLOYMENT AND TRAINING

ACCOMPANIED BY:

ROBERT J. McCONNON, DEPUTY ASSISTANT SECRETARY FOR EMPLOYMENT AND TRAINING
WILLIAM B. HEWITT, ADMINISTRATOR, OFFICE OF POLICY EVALUATION AND RESEARCH
ROBERT ANDERSON, ADMINISTRATOR, OFFICE OF COMPREHENSIVE EMPLOYMENT DEVELOPMENT
T. JAMES WALKER, ACTING ADMINISTRATOR, OFFICE OF ADMINISTRATION AND MANAGEMENT
CAROLYN M. GOLDING, COMPTROLLER FOR EMPLOYMENT AND TRAINING
JOHN F. SHINE, BUDGET OFFICER, OFFICE OF ADMINISTRATION AND MANAGEMENT
WILLIAM R. REISE, COMPTROLLER FOR THE DEPARTMENT
CHARLES E. PUGH, DIRECTOR, OFFICE OF BUDGET

EMPLOYMENT AND TRAINING PROGRAMS

Senator EAGLETON. Good afternoon ladies and gentlemen.
The Subcommittee on Labor and Health, Education, and Welfare Appropriations Subcommittee will now come to order and we will begin with hearings on the fiscal year 1979 Labor Department appropriations requests.

We will begin with testimony today and tomorrow concerning programs authorized under the Comprehensive Employment and Training Act.

This afternoon the focus will be on State and local programs, for which a total of $8.7 billion is requested for fiscal year 1979.

The chief witness is Ernest Green, Assistant Secretary for Employment and Training.

Mr. Secretary, please introduce your associates, and proceed with your statement.

Mr. GREEN. Thank you, Senator.

INTRODUCTION OF ASSOCIATES

On my left is Mr. Anderson, Mr. Hewitt; on my right, Mr. McConnon, Mr. Walker, Mr. Shine, Mr. Reise, and Mr. Pugh.

Senator EAGLETON. You might just say what all this team does. One more and you would have a baseball team.

Mr. GREEN. Mr. Anderson is in charge of CETA programs. Mr. McConnon is the Deputy Assistant Secretary for Employment and Training. Mr. Hewitt is the Administrator, Office of Policy Evaluation and Research. Mr. Walker is the Acting Administrator, Office of Administration and Management. Mr. Shine is the Budget Officer, Office of Administration and Management. Mr. Reise is the Comptroller for the Department, and Mr. Pugh is the Director, Office of Budget.

REQUEST FOR STATE AND LOCAL PROGRAMS

I appreciate the opportunity to appear before you today to present the 1979 budget requests for State and local programs administered by the Employment and Training Administration.

The specific areas I will cover today include the basic title I comprehensive employment and training programs, the skill training improvement program (STIP), and the public service employment programs, which are authorized by the Comprehensive Employment and Training Act, as amended.

As you are aware, the funding authority in this act expires at the end of this fiscal year, except for the Young Adult Conservation Corps contained in title VIII, and therefore requires reauthorization.

The administration will be submitting a legislative proposal to the Congress shortly.

In addition, I will present to you two new initiatives proposed for 1979. One is a large-scale demonstration effort relating to the employment opportunities program component of the President's welfare reform proposal.

The other is a private sector program to develop better ways to make the private sector unsubsidized jobs available for greater numbers of the long-term unemployed and disadvantaged, particularly youth.

I will also briefly discuss the Federal salaries and expenses account which supports not only these programs but also the other programs administered by the Employment and Training Administration.

BUDGET REQUEST

The budget request for fiscal year 1979, for title I comprehensive employment and training programs is $2,026,700,000, which is an increase of $75,300,000 over the revised fiscal year 1978 level of $1,951,400,000.

The fiscal year 1978 revised estimate includes a proposed supplemental totaling $71,400,000. This supplemental and the fiscal year 1979 increase of $75,300,000 reflects the estimated impact of the minimum wage increases on the title I programs.

The title I funds provide financial assistance primarily by formula to over 450 State and local prime sponsors to design and operate comprehensive employment and training assistance programs tailored to meet the specific needs of their communities.

These funds will permit prime sponsors to serve more than 1.6 million economically disadvantaged, unemployed, and underemployed persons in various training and employment programs during 1979.

PRIVATE SECTOR OPPORTUNITIES

Our major objective for title I programs in 1979 is to increase private sector opportunities. These will include the promotion of new methodologies for linking employment needs with the private sector, the improvement of abilities to match skill training with available job opportunities, and the promotion of the development of programs which are cost effectively administered, so as to insure that the maximum number of participants may be served.

We are not requesting new funding for the skill training improvement program for fiscal year 1979. The lessons learned from this one-time economic stimulus program effort will be folded into other employment and training programs now in existence or in the developmental stages.

Senator EAGLETON. I guess I will wait to question you later on, but I would like some further elaboration on that point. But perhaps let's go through with the full statement and I will come back to this.

Mr. GREEN. All right.

A total of $325 million is available for the program in 1978, including $75 million in 1978 obligational authority and $250 million in unobligated 1977 funds.

The program is designed to provide primarily classroom training to eligible participants in occupations which show an existing or projected demand and which require substantial preparation prior to actual performance of job requirements.

Funds are distributed to prime sponsors through a competitive process.

Although there is a marked improvement in the economy, the unemployment situation continues to call for special measures. Therefore, in 1979 we are requesting to continue the 725,000 public service employment jobs currently authorized under titles II and VI of the Comprehensive Employment and Training Act, with funding to be provided from the Temporary Employment Assistance Appropriation.

Funds to finance the 725,000 jobs for 1978 were provided by forward funding in 1977 appropriations.

A total of $6,670 million is required to maintain the 725,000 public service employment jobs during 1979. Of this total, $5,955,286,000 of new obligational authority is being requested for fiscal year 1979, with the remaining $714,714,000 to be derived from projected unspent carryover funds.

At the time the Economic Stimulus Appropriation was enacted, there were 329,000 individuals enrolled in the title II and VI programs.

Although we have not yet reached the 725,000 jobs level, we expect to reach it by March 1978.

As of January 13, 1978, there were 633,415 participants enrolled. The unit cost per job is estimated to reach $8,900 by the end of fiscal year 1978, and to average $9,200 during fiscal year 1979.

WELFARE REFORM

The 1979 budget estimate contains $200 million to implement a series of welfare reform demonstration projects which would test alternative methods of job creation, regional variations in the number and type of clients served, and various management systems which would be used under welfare reform.

The demonstration projects are essential to insure that the service mechanisms envisioned by the proposed Better Jobs and Income Act will have been well defined and tested prior to implementation of the program nationally.

The basic objective of these projects is to test the ability of Department of Labor related institutions to create special public jobs on a large scale for persons who would be eligible for such jobs under welfare reform.

The projects will also permit refined national estimates of the employability of the welfare reform target population and the number of public service jobs which would need to be created to serve that population.

In addition, valuable information will be acquired on variations in delivery systems or linkages between prime sponsor, employment security agencies, and welfare agencies, as well as the different approaches to public job creation.

All of these issues are crucial to the successful implementation of the proposed welfare reform program.

PRIVATE SECTOR JOBS

A major effort will be made in fiscal year 1979 to increase the orientation of training and employment programs toward preparation for, and placement in, private sector jobs.

To do this, we are requesting $400 million in fiscal year 1979 in new budget authority.

Working through states and localities these funds will be utilized for training and employment designed with the aid of local businesses.

This initiative will be aimed at serving the long-term unemployed and disadvantaged, particularly youth.

Industry Training Councils will be established by prime sponsors, composed of both employer and union representation, as a vehicle for full private sector participation in all aspects of the Comprehensive Employment and Training Act.

The private sector initiatives effort will have dual objectives: First, to elicit a broad range of industry cooperation and support; and second, to place in private unsubsidized jobs, participants who have difficulty finding such work.

Prime sponsors will be assisted in utilizing more on-the-job training in industry and in transitioning public service employment participants to industry where private job opportunities are expanding.

Federal staff efforts in support of these programs and other employment and training administration activities will remain at or about the same level in 1979 as in 1978.

The budget request for fiscal year 1979 for the Program administration account is $125,676,000 and 3,666 positions.

This represents a net increase of $1,210,000 and a decrease of 165 positions from the 1978 appropriation request.

The reduction in positions represents a net decrease due to a reduction of unfilled positions for which funding was used to offset increased pay costs in 1978.

Increases consist of 25 additional positions for further implementation and evaluation of the employment security automation project, 10 additional positions for planning and developing implementation strategies for welfare reform, 9 additional positions associated with veterans' activities, and 24 additional positions to strengthen the investigation and compliance activity.

This concludes my statement, Mr. Chairman.

I will be glad to answer any questions you or members of the committee may have.

Senator EAGLETON. Let me just backtrack, because I have marked a couple of spots, and then I have some other questions, as well.

SKILL TRAINING IMPROVEMENT PROGRAM

Back to page 3, the top of page 3, you say:

> We are not requesting new funding for the skill training improvement program for fiscal year 1979. The lessons learned from this one-time economic stimulus package effort will be folded into other employment and training programs now in existence or in the developmental stages.

What lessons did we learn?

Mr. GREEN. Creating entry-level jobs, moving people up the ladder.

Of the prime sponsors we have now participating in the skill training improvement program, I think roughly two-thirds of them were actively involved, and are now receiving STIP grants. We have another round of funding going out this year. Our basic objective is to try through our reauthorization to make that an allowable activity in title I, which it didn't allow as of present.

Senator EAGLETON. Maybe you better tell me when this program started and what it was designed to do. Maybe I will have a clearer appreciation.

Mr. GREEN. Well, this was started at the beginning of the new administration. Its primary objective was to allow upgrading activity. That is, individuals presently within firms, to utilize our program dollars to move them up the career ladder within an industry or an occupation, and, in that manner, create entry-level positions for new workers to come in. And, heretofore, that was not allowable under title I and CETA.

Senator EAGLETON. What did we spend on this last year, this upgrading business?

Mr. GREEN. We spent in the first round $124 million in grants to the CETA prime sponsors and an additional $30 million has gone out over the past few months.

Senator EAGLETON. We have spent this money and now folded this program, I take it, into other things—did the program not work, or have we done all the upgrading that we can do, and we are now under different things, or is there a third alternative?

Mr. GREEN. I think it is a third alternative. As we just began the program this year, we have not learned all we can, we have done another round of STIP, but as part of our continued private sector initiatives, we feel that, one, allowing the prime sponsors to perform this as one of their tasks under title I is a desirable goal. And, second, that we have the additional money that we can now use as our preliminary activity on our private sector initiatives that I spoke about in my statement.

Senator EAGLETON. Maybe I am asking too simplistic a question. How would you describe the program as it ran last year, was it a success or a failure?

Mr. GREEN. I would say it is too early to describe. But, it is a success in terms of the occupations and industries, as they came in, and in the prime sponsors we were able to get to participate in the upgrading activity.

Secondly, in the size of prime sponsors that participated in it, many large city prime sponsors and those with good employment activity were the ones involved in it. I might ask Bob Anderson and Bill Hewitt to add additional comment on that.

Mr. ANDERSON. As the Assistant Secretary has indicated, it is a little bit early to try to assess the full rewards of the program. We just got started——

Senator EAGLETON. Is that really so? You are, in essence, discontinuing, and you have asked for no increase in title I manpower revenue-sharing to allow for local project sponsors to carry on skill upgrading projects. You are, in essence, I take it, abandoning the program, so it either failed or it didn't live up to expectations or——

Mr. HEWITT. We are really broadening it, Senator. It will be part of the activities we expect to conduct under the private sector initiatives, which is a separate line item at $400 million in 1979.

Senator EAGLETON. $400 million, that was an increase of—that is part of the new initiative?

Mr. GREEN. New private sector initiative.

Senator EAGLETON. Folded in there. OK.

Remind me to get into that $400 million a little later on. Now, let's move to the $200 million on page 4 of your statement. In the middle near the bottom, you say:

In addition, valuable information will be acquired on variations in delivery systems or linkages between prime sponsor, employment security agencies, and welfare agencies, as well as the different approaches to public job creation.

Elaborate a bit, will you, on how this $200 million is being spent.

WELFARE DEMONSTRATION PROJECTS

Mr. GREEN. Well, the $200 million would allow us to fund approximately 10 demonstration projects throughout the country, looking at the question of regional variations, rural versus urban, and other factors that we would like to explore.

It would also allow us to test the linkage question between our delivery systems, and that would include our CETA program sponsors, employment security agencies, and the welfare agencies. It would also allow us to look at the ability of those demonstration projects to develop public service jobs. We think it is viable in that we have already under way one called the Minnesota work equity program——

Senator EAGLETON. This is one in being of the 10 that you are coming up with?

Mr. GREEN. No, this is one that would be an add-on to that. The Minnesota work equity program is already under way.

Senator EAGLETON. Tell me either about that program or tell me about—you say there are to be 10 of these demonstration things.

Just give me sort of a layman's description of what these things are going to demonstrate.

EXPLANATION OF DEMONSTRATION PROJECTS

Mr. GREEN. Well, the better jobs and income program on welfare reform is an attempt to put people into jobs first, an attempt to put them into the private sector, into the unsubsidized job area.

After a search period, when that fails, to be able to assure them public service employment, and that will be created through the prime sponsor process.

These 10 demonstration projects will give us a forerunner, an early start, before 1981, as the President's bill outlined, to have welfare reform enacted by then, but to give us an experience factor on the problems at the local level of mounting this activity.

Senator EAGLETON. Is either the $200 million or the $400 million which are your two new requests, are either of those or both of those linked to welfare reform?

That is, do they sink or swim only if welfare reform comes into being, or are you saying these are indispensable forerunners regardless of what Congress does or doesn't do on welfare reform?

Mr. GREEN. The $200 million is a forerunner of welfare reform. The $400 million private sector initiative, although legislation is needed, it is separate and distinct from the welfare reform proposal.

Senator EAGLETON. I'm still grasping around for what kinds of things we are going to try to demonstrate. I imagine each of the 10 will be in some sense a little different, right?

Mr. GREEN. Yes.

Senator EAGLETON. Could you give me an example of any one of them that you envision?

Mr. HEWITT. Mr. Chairman, there has been a good deal of question about the Department's estimates, the Administration's estimates, that something like 1.4 million jobs in 1981 would be sufficient to provide a job for the primary wage earner in every family with children in this country as is proposed in the Better Jobs and Income Act.

One of the things we would be testing under a variety of local conditions, in a city with high unemployment, a city with not high unemployment, rural areas, smaller communities, a balanced geographic——

Senator EAGLETON. Give me the big city with high unemployment. Tell me what you see happening.

Mr. HEWITT. The principal thrust is to test the capability of that local prime sponsor in that big city to——

Senator EAGLETON. Who might be a local prime sponsor? Give me an example.

EXPLANATION OF PRIME SPONSOR

Mr. HEWITT. The city government, essentially the mayor. We have a local prime sponsor, the mayor of St. Louis——

Senator EAGLETON. In all these, the local prime sponsor will be the local governmental entity.

Mr. HEWITT. That's correct. We will use the CETA system to check this out in the better jobs and income proposal.

The thrust of the program would be to demonstrate that there are jobs that local government can create to put these family breadwinners to work and to give us a check on our estimates of the numbers of jobs that it would take to really provide jobs for everybody in those circumstances that wants a job and needs one.

And at the same time, we will be able to observe—though there won't be any kind of rigorous experiment involving this because there will be too many variables to make a rigorous test on these many aspects—the kinds of connections made between the employment service and CETA prime sponsors and welfare agencies, and how it would work out variously in various places, depending upon state laws so that we can learn the best kind of models to pursue under the welfare reform legislation when we get that.

Senator EAGLETON. But the principal thrust will be on creation of jobs, the kinds of jobs, the kinds of problems that are confronted and have to be overcome with creating jobs of—not too far above the minimum wage, and relationships with all the employers that have to be worked out.

Is part of the reason for this the fact that the finance committee, which has before it the basic welfare reform package, that members of the finance committee and other Senators wanted some exploration done as to what might or might not work prior to locking the country into a new welfare reform bill that hasn't really been tested, at least in certain variable circumstances?

Mr. HEWITT. No, not—we don't anticipate the necessity for delaying enactment of the better jobs and income program to await the outcome of these projects.

It's our position that we are confident that there are jobs out there. There are also problems to overcome to make sure that they function smoothly and we can put people to work on them.

Senator EAGLETON. I'm having trouble getting a handle on this. Let me ask it this way. Let's take my home city of St. Louis. There is widespread unemployment in north St. Louis, which is a 100 percent black area, virtually, with the normal figures of high teenage black unemployment that you would probably find in Cleveland or in Newark or in Watts.

Now you're going to go to the mayor of St. Louis, you're going to give him one tenth of this $200 million, if that be the one. He's going to have $20-or-so million to find out what?

Mr. GREEN. We would attempt to find out whether we could generate enough private sector jobs.

Failing that, then the city of St. Louis and, obviously, given the structural unemployment we have, we would move to public service jobs for these individuals that we would identify.

We would attempt to find out how many make up that number in St. Louis, in north St. Louis or the area we target on, how many would come forward, how many would need additional assistance.

All of these would be items that would be tested.

Senator EAGLETON. We are not doing any of that now in terms of placement services?

PSE PLACEMENTS

Mr. GREEN. Public service employment placement now doesn't necessarily go to the breadwinner. One of the complaints is that public service employment eligibility criteria has allowed the prime sponsors to "cream" individuals who get placed. Individuals who could find their way into the local market anyway.

Take, for instance, the college graduate, a kid coming out of college. He's been unemployed 15 weeks or more. If he's living alone, by himself, he meets the family income test and in some cases, those have been public service employment people that have gone to work.

The new program is certainly a much more focused program on those who need it most and moves in that direction.

Senator EAGLETON. Don't get me wrong. If I had a criticism of the budget I would say we aren't doing enough in terms of job placement. It is not a question of my being picayune, I just want to get a better grasp of what we are doing.

Is it your general comment following up on your last answer that in the present CETA program, we, like many other people do in life, we are dealing with the easiest job situations, and not coping with the hard core deeply indigenous unemployment factors of a north St. Louis, that is, a college graduate, it is a lot easier to place him, whatever he is doing, it is a lot easier to place him than a 17-year-old who dropped out in the ninth grade.

Is that part of what we are probing on this with money?

Mr. GREEN. Well, we are probing a greater target area, yes.

PROGRAM FOCUS

Mr. HEWITT. The Better Jobs and Income Act does not focus at the youth program. We have a substantial new youth program under the Youth Employment and Demonstrations Project Act enacted last summer which we are proposing to be extended.

That focuses more on that 17-year-old ninth-grade dropout type that you were talking about.

This is to provide an employment remedy rather than welfare, for the heads of families with dependent children. Not kids. We have another program to worry about them, the hard core unemployed youth.

Senator EAGLETON. But is it your belief that with respect to heads of households, et cetera, we really haven't probed it enough to know the availability or the lack of availability of private employment in north St. Louis?

Mr. HEWITT. I think in north St. Louis, we are reasonably confident we are not going to be able to place all the heads of households in private industry.

What we don't know, frankly, is how many of the individuals that would be eligible under the better jobs and income program that would come forward for, say, a $7,000, $7,500 a year job, and what their characteristics are in some detail and what kinds of jobs that we would have to create in north St. Louis to employ all those people.

Now, the people that are there, are the people that we are trying to create jobs for under the present program and it wouldn't be any good if we could create a lot of jobs that required baccalaureate degrees or something else, if the people we are trying to reach with those jobs don't have those kinds of qualifications.

So we have to really nail down that, yes, there are enough jobs that can be created, providing services or community improvement in the north St. Louis area to provide the jobs to the residents of that jurisdiction who don't have all that good skills, but nonetheless who will either have to work or will have to be supported in some other fashion.

Senator EAGLETON. Let's inquire, then, a little about the 400 million now. Where do you see this heading? This is the second——

Mr. GREEN. This is the private sector.

Senator EAGLETON. New initiative area, we have been discussing the 200 million, let's move to the 400 million.

PRIVATE SECTOR INITIATIVES

Mr. GREEN. It is our attempt to leverage our CETA system and develop a closer tie with private industry.

As you know, or may not know, we have taken an index of on-the-job training activity. Since I think roughly 1974, before CETA, in the MDTA days, those activities made up something like 30 percent of our training activity.

In 1975 it dropped down to about 6 percent of the title I activity and it has finally risen up to about 12 percent. But clearly, we think that the CETA system could improve its activity with the private sector area. This would allow us to create the industry training councils, to make that connection with the prime sponsors, to make available such funds on a formula basis, and to be able to insure a greater private sector involvement in institutional training, vestibule training, and on-the-job training activity. All of these which we think are desirable connections with our training program.

Senator EAGLETON. I think there is no doubt we want to enhance the private sector involvement, and so I have no quarrel with the thrust at all.

But give me a specific example. Let's go back to north St. Louis again. Let's say we have got some people in CETA slots, and they are working for the city of St. Louis.

Now, what are going to be the mechanisms that you will be probing to get a greater private sector involvement?

EXPLANATION OF CETA INVOLVEMENT IN PRIVATE SECTOR

Mr. GREEN. Well, on public service employment, the transitioning of people from subsidized jobs into unsubsidized jobs is occurring at about a 33 percent rate presently.

We would, by this effort, have a greater identification, and I don't know of the St. Louis manpower council, but I would say if it is like most councils that it has fairly inactive business involvement, industry involvement sitting on the council and in its planning stages. That is, planning for where the trainees go, where you concentrate skills training and what the shortages are.

These are issues we feel the council would be able to address. On the question of public service employment people who are coming out of a subsidized job, we would be able to identify through the help of this council where the options are, where the slots are, and be able to increase our transition above our 33 percent level.

Senator EAGLETON. Are there not at this time efforts being made by some agency, whether it's the State employment service or what have you, to contact, say, Anheuser Busch, to see what kinds of jobs might be available there, Monsanto Chemical Co., et cetera, the largest industrial employers in the Greater St. Louis area, and some probably smaller ones as well?

Are not substantial programs in place? True, they may not be successful, but isn't activity being done in that area now to inventory skills, job needs, job training?

Mr. GREEN. As I said earlier, I think that if you look at it nationally—I don't have the information on the St. Louis prime sponsors—but on the national data that we have, clearly, we think that it could be a substantial improvement in OJT activity, institutional training, the kinds of things that would lead to increased private sector placement.

And this is an attempt to move in that direction.

Mr. HEWITT. You're quite right, Senator. We do have the employment service trying to get job orders from, I presume they must be trying with Anheuser Busch, and all of the rest of them, McDonnell Douglas, and so forth.

What this initiative is, is to respond to the business community that has been communicating with the Department and the White House, saying, "Give us a form that we can identify that is our piece of the action, so that we can more actively respond and participate in the employment and training programs of this country." Rather than them being asked to participate in Government's program, whether it's the Federal or local prime sponsor.

This is an attempt to get them into the action early so that it's their program, so they will have some commitment to it.

So it won't be us going out knocking on doors asking for a few jobs.

Senator EAGLETON. We have been trying to do that for years, but I take it we have not been putting enough effort——

Mr. HEWITT. That is absolutely correct. Ever since 1962, with the first on-the-job training programs under MDTA, we have been trying to find a way in the employment training programs really to get the business sector committed to it.

The NAB jobs thing 10 years ago was another effort in that direction.

Senator EAGLETON. So we are taking another crack at it. So it's fair to say that these two programs, the $200 million, one will be 10 demonstration projects, and this $400 million program we have just described, those are the two new initiatives in the Labor Department budget from job development point of view.

Is that right?

Mr. GREEN. Yes.

Senator EAGLETON. And that other portion of the budget is increased budgetary requests for ongoing, existing, and established programs.

This is what's new about this year's model.

Is that right?

Mr. GREEN. Yes.

Senator EAGLETON. It's not clear to us. Are these dollars going to be spent in direct wage subsidies or in training or what?

Mr. HEWITT. No, sir.

Mr. GREEN. These will not be wage subsidies, but in training, yes.

Mr. HEWITT. We don't have statutory authority——

Senator EAGLETON. All in training. And it's going to come to about $10,000 per enrollee. Did we get that?

Mr. GREEN. No. We figure roughly 100,000 slots, if you take the experience rate we have had with a combination of institutional training, OJT. It would be about $4,000 per slot level.

Senator EAGLETON. Let's clarify it for the record.

We have employment training and administration, private sector initiatives. Budgetary authority, $400 million.

The next column, enrollment opportunities, 40,000.

Mr. ANDERSON. That is incorrect.

Senator EAGLETON. That is incorrect?

Mr. MCCONNON. That would be end-of-year enrollment.

Mr. GREEN. We would figure full year, that would be roughly 100,000 slots.

Senator EAGLETON. 100,000 slots.

Mr. HEWITT. If you take the OJT, or the private sector, it's not like setting up an institutionalized position like a Job Corps. A position is a person that goes into it and occupies it for 4, 5, 7, 10 months, whatever it is, while that support is being provided.

I suspect those figures come out to some kind of annualized estimate of the total per year.

Senator EAGLETON. Would the amount of support vary from enrollee to enrollee?

Mr. GREEN. Yes.

Mr. HEWITT. Yes.

Senator EAGLETON. So this is an average of $4,000, I take it, some may be up to $6,000 or $7,000, and some might be down to $3,000 or $2,500.

Mr. GREEN. It could be. The experience right now on the national OJT program is that $1,600 a slot for OJT activity——

Senator EAGLETON. Who makes the decision as to the amount of support per enrollee. How is it determined whether he is supported up to the $7,000, or $1,600?

Mr. GREEN. That would be the function of the council with the prime sponsor, and we have guidance from previous OJT programs, depending upon the occupation, length of training.

A procedure that is worked out for reimbursement——

Senator EAGLETON. We have enough experience on that. That is not a problem?

Mr. GREEN. No.

Sentaor EAGLETON. Now for what length of time do you anticipate Federal funding would continue for private sector initiatives?

Mr. GREEN. Well, this is a budget item for 1979. This would be made available for that fiscal year.

Mr. HEWITT. It depends on the reception we are able to generate, Senator. As you have observed, we have been working at that for some 15 years, I guess.

Senator EAGLETON. Yes.

Mr. HEWITT. If it doesn't work significantly better than some of the other attempts, we would probably not seek refunding.

Senator EAGLETON. This is sort of, in essence, a sort of last gasp try. I'm not faulting it.

Mr. HEWITT. I don't know whether it's a last gasp. I hope we will keep trying until we succeed, because that is the bottom line.

Senator EAGLETON. There is no doubt in my mind that if we have any appreciable improvement in inner city employment, we have got to somehow or another keep trying to get the private sector involved. There just aren't going to be enough so-called Government-type jobs to begin to do the job.

I know the experience thus far has not been accelerating. I guess we just have to keep trying.

How many Federal staff are going to be necessary to implement this $400 million private sector initiative?

FEDERAL STAFF

Mr. WALKER. At the moment we presume we will be able to absorb that with our current staffing.

Senator EAGLETON. I would hope so because we are not certain that this will be in next year's budget.

Mr. GREEN. One of the things, Senator, also, that this is an attempt to put that program activity out in the prime sponsor area. Many of the private sector initiatives have occurred from here nationally, and we think one of the adages of this is that it is in the hands of the prime sponsors, and gives them additional assistance locally.

Senator EAGLETON. Have any of the eight of you that are here, Mr. Green, your colleagues, do any one of these eight individuals have as the prime reason for their efforts, working with the private sector?

Who is your top man in your department whose major role is to try to do more with the private sector? Do you have a deputy assistant or somebody——

Mr. GREEN. I have a deputy assistant secretary who is Bob McConnon, and that major program responsibility falls in three areas right now.

It falls in Bob Anderson's shop at CETA, it falls in the office of national programs, title III programs, and falls in our youth programs. As well as employment service.

So, four, I am sorry.

Senator EAGLETON. But there is no one individual whose prime responsibility is liaison with, efforts in connection with private employment, private sector.

Mr. GREEN. No, because as I said, it cuts across many program areas. And——

Senator EAGLETON. I know. I guess it would be nice for us but it wouldn't necessarily be the way you ought to run your department, if there was one person whose major, if not sole effort, was private sector job development.

PUBLIC SERVICE JOBS AND UNEMPLOYMENT

Many people think public service jobs don't really help reduce the unemployment rate, but just cause more people to enter the labor force and substitute Federal funds for local resources, and eventually end up putting people back into unemployment lines since the jobs are temporary.

Do you think some of this criticism is valid?

Mr. GREEN. As I indicated earlier, we are transitioning out into private sector jobs about a third of the present PSE participants. If you take all positive terminations that would include going back to school, or returning to armed services, the figure rises up to about 60 percent.

That was before the economic stimulus program. I see that that effort should increase, not decrease. I don't think that the project's concept as well has minimized the question of the substitution. And the other part is that our targeting on the individuals, long term unemployed, the family income, AFDC participants all have moved us away from that.

Mr. HEWITT. I don't think there is any question that an increase in employment opportunities does tend to draw additional people into the labor force. It doesn't make any difference whether they are public job opportunities or private job opportunities, so that there is not a 1-for-1 reduction in unemployment when you create some new jobs, no matter what sector you create it in.

Mr. GREEN. The other point of that is that subgroups in our economy participate in the labor force less than others.

If you take black youth, they are in the labor force participating at a much lower rate than white youth. For some, while programs will serve as an attraction to draw more of them into the work force——

PUBLIC SERVICE JOB PLACEMENTS

Senator EAGLETON. What percent of public service job participants are placed in nonsubsidized jobs? What percent of public service job enrollees find jobs in private industry and what percent end up in permanent jobs in the public sector?

Mr. GREEN. The figure I used before was about a third. I don't have the break for unsubsidized public as opposed to private.

Mr. HEWITT. I don't have any figures. We have got an evaluation, longitudinal evaluation study going which will begin to give us some answers in a couple of months on that question.

Again, the people that will have been out for a long enough period of time to reach judgments on would be people in the public service prior to the economic stimulus package which just started up last May.

So we don't have much in the way of numbers coming out on that yet. But we will be able to give you some ideas on that in the next couple of months.

PUBLIC SERVICE EMPLOYMENT EXPANSION

Senator EAGLETON. OK.

Why doesn't your budget propose to expand the public service jobs program in view of the fact that the President has proposed 1.4 million public service jobs, double the currently approved level, in connection with this welfare reform legislation?

Mr. GREEN. Well, this budget maintains public service employment at 725,000. And the additional $200 million will add on roughly 40,000 to 50,000 slots. It is an increase. If we track that in 1980 we are proposing $400 million. We would be maintaining that level of PSE slots, slightly higher.

Senator EAGLETON. Did you ask for higher dollars on this from OMB and were turned down, I take it.

Mr. GREEN. Yes.

Mr. PUGH. No.

Senator EAGLETON. No? Yes and no.

Mr. PUGH. No.

Senator EAGLETON. Well, what is it, gents?

Mr. PUGH. As you know, in 1979 we are proposing to continue the 725,000 jobs level.

For 1980, and beyond, what has been recognized in the budget itself is a need for continuing countercyclical and counterstructural PSE programs.

The difference will be that the requests will be keyed to the level or the rate of improvement in the economy. Of course, that will be on a counterstructural countercyclical side. Welfare reform PSE jobs will be geared specifically to welfare reform clientele.

So it is very possible that you could have the two together.

Mr. GREEN. But I think in all honesty we did ask, on welfare reform we asked for almost twice as much budget authority and we were turned down on that.

But this figure for the 725,000 in 1979, given a general improvement in the economy, should allow us to focus more on the structurally unemployed.

We expect to have even greater focus on those individuals occupying the PSE slots.

Senator EAGLETON. We sometimes get into this on other items in budgets and this one as well.

Are you geared up, if the Congress were to increase this appropriation? Are we geared up to actually get the money working or is this one of those things where there will be a gap between the appropriation and its actual implementation?

Mr. GREEN. Well, we have moved the PSE program presently beginning in May from less than around 300,000, 320,000, up to almost 725,000. That is continuing. It was forward funded through 1978. We would simply maintain that level.

Senator EAGLETON. But if Congress——

Mr. GREEN. We could increase——

Senator EAGLETON [continuing]. Decide to make it 825 or 850, is that the kind of mandate, that can be quickly implemented?

Mr. GREEN. We think we have demonstrated the ability to expand it by moving from the 320 to the 725, certainly the process is there.

Senator EAGLETON. Title II, public service employment by the end of December last year, we were up to 110,000 enrollees. By the end of February it was thought we would be up to 125,000 enrollees.

How are we progressing on that? Are we going to make it?

Mr. GREEN. We expect to make the 725 by the middle of March.

Senator EAGLETON. No, 125. I am talking about title II.

Mr. GREEN. Title II, yes.

Mr. WALKER. That is part of the 725.

Senator EAGLETON. I am just asking about this one hunk of it. Do you think that you will make that 125,000 by the end of February?

Mr. WALKER. Yes, or the middle of March.

Senator EAGLETON. Let us know what the February results are when the returns are in.

FORWARD FUNDING OF PSE

Now, with respect to forward funding of public service jobs, we mentioned the forward funding. What is to prevent a repeat of the situation that occurred in 1976, which saw public service job enrollments decline rapidly when the program had to operate on a continuing resolution without the certainty of forward funding?

Mr. GREEN. Well, we think that carryover money, we have ample, and that the system is planned. I might have Jim amplify on that.

Mr. WALKER. Well, I guess we are going to be achieving the 725,000 level by approximately the middle of March. We have ample funding in the 1978, from the 1977 stimulus appropriation, to continue that program through September.

This budget request would provide for the continuation of that amount through fiscal 1979. We feel, I guess, as far as advanced planning is concerned that the commitment of the administration to continue that level, and it seems to us, I guess, by that time we will have had actual deliberation in Congress over this appropriation, that the uncertainty about continued funding in fiscal year 1979 will be lessened.

Mr. HEWITT. The situation was quite different in 1976. There wasn't a pending budget request for funds of that kind and the bill had just been reenacted.

There wasn't even an authorization for it when the regular appropriation bill went through and then it was a continuing resolution situation at the last minute after the bill was reenacted.

I think it was in October when it finally was signed. So the circumstances are quite different at the present time.

You have got the administration with a request to sustain the program at the existing program level in 1979.

Mr. WALKER. At that time also there was quite a lack of clarity as to what the continuing resolution really meant, what level was to be continued.

So there was confusion at that point in time which I don't really think a continuing resolution for fiscal 1979 would do. It would presumably continue the 725,000 which is our request.

Senator EAGLETON. You know Senator Magnuson sponsored a $3.8 billion budget committee amendment to forward fund public service jobs in the spring supplemental.

Since we started the precedent of forward funding public service jobs last year, why should we reverse this policy?

Particularly when the congressional budget ceiling sets aside $3.8 billion.

Mr. WALKER. I believe, Ernie, if I may, the request to forward fund the stimulus program was in fact to insure prime sponsors that there would be a full 18-month program and that we were talking about getting up to that 725,000 level and continuing that.

It was not a supplemental for 6 months. It was a supplemental for the whole 18-month program.

Again, I think that the reason we don't feel it necessary to go for a supplemental at this point in time is because that assurance for continuing the program is there.

REPORTING

Senator EAGLETON. Local project sponsors have complained about excessive reporting requirements during the buildup phase of the public service jobs program.

Why is it necessary to require weekly status reports on hiring schedules? Why wouldn't monthly satisfy? You know, this whole paperwork thing, we are being set upon by constituents almost daily about reports, reports, more reports, et cetera.

Is this one area where we could strike a blow for freedom and somehow tailor down the number of reports without compromising your program?

Mr. GREEN. Well, I think, Senator, the intent was to move this program as quicky as possible, to get people out of work employed.

To be able to get a concentration and focus on how quickly it was moving along.

It required—we certainly are interested in saving trees and not in endangering them any more than they are presently.

One of the great surprises I found out coming into government, was how much paper is used. But on this one, because of the speed to mount it, the need to bring on the number of people as quickly as possible and to make it have the stimulus activity that it was

purported to be, we felt that weekly reporting was a process we needed.

Once we reach the goal we plan to reduce the——

Senator EAGLETON. How close are we to the goal?

Mr. GREEN. Some 50,000 people away from it.

Senator EAGLETON. Pretty close.

Mr. GREEN. Yes.

Senator EAGLETON. And you would expect that we will reach that in a period of weeks, right?

Mr. WALKER. Yes.

Senator EAGLETON. Would you make a little note when we reach it to see if we can cut back on the number of reports?

Again, we don't want to compromise the program. These are public moneys and they have to be monitored and accounted for. I understand that.

But can we back off that weekly schedule when we reach that point?

Mr. GREEN. Most of the weekly activity was by telephone. So it simply required, so that we could identify who the prime sponsors are that were moving to employ people and those which weren't.

We were able to determine that north St. Louis would have more of a need than some other place, be able to identify where those resources needed to be guided.

Senator EAGLETON. All right. Let's move on.

FILLING OF JOBS

Transition to unsubsidized jobs. Some public service job project sponsors have complained that the Labor Department regulations are discouraging the transition of workers to unsubsidized jobs by requiring sponsors to be at 80 or 90 percent of their buildup at all times. How do you encourage sponsors to place enrollees into unsubsidized jobs when this might cause them to lose funding for not having at least 80 percent of their slots filled?

Mr. GREEN. We think a desirable intent of the program is to move people who need employment in. If we are transitioning people into private-sector jobs, that is a desirable goal, and that with some 6.5 million people unemployed in this country, we think that there are ample numbers of people available. And that this shouldn't present a problem for prime sponsors.

I would think that the intent of the public service employment program is to move people through who need the employment and, if we find them jobs they find jobs on their own, it makes a slot available for another individual to gain employment.

Senator EAGLETON. Now, I know we are trying to build up rather rapidly to the 725,000 level. And I support that, because the name of the game is to get people to work. But is there sort of a disincentive where, in order to remain eligible, you have to keep a high number, 80 or 90 percent, filled at all times? Does this discourage transferral from public jobs to private jobs?

Mr. GREEN. Well, I don't think so. I think the project concept that we are utilizing would allow a prime sponsor, once identifying the projects the people are on, to establish a pool of eligibles. And you would always have, in my experience, going out into the field, all prime sponsors seem to have an excess of people eligible for the

public service employment. And it would seem to me we have two or three desirable goals we are trying to achieve. One is to get people into private-sector employment through the transition, and two, to provide as much employment for that local area for those disadvantaged and unemployed.

And the third is to try to keep the system at a high enough level to keep a reasonable number of people employed.

If we set a goal of 50 percent, we wouldn't have the stimulus activity. We would only have the slots filled, and I would be before the committee making the statement that we were unable to find enough people to put into the jobs.

So I don't see those as conflicting goals, but ones that complement each other.

Senator EAGLETON. This is your way of keeping their feet to the fire, supposedly?

Mr. GREEN. Yes, sir.

Senator EAGLETON. Do you feel that the illegal substitution of Federal public service jobs funds for local funds can be effectively monitored in order that the penalties can be imposed, that is, specifically, how is the monitoring carried out?

MONITORING

Mr. GREEN. Well, the monitoring is done through our regional offices. We have on the question of substitution, I think, moved fairly vigorously. Bill Hewitt and Bob Anderson might want to speak more to that.

Mr. HEWITT. I think Mr. Anderson can tell you about what is done. All I could add at the moment is that we have a very expensive study that Congress laid on the National Commission for Manpower Policy that is being conducted with our finances by them. I mean through them by Brookings Institution. We hope to get a report on the extent of the substitution, net job creation, I think, is the language used, in March of this year.

I am sure the Commission is going to make every effort to make that available at the earliest opportunity. The earliest indications we have is that substitution hasn't been, from the large sample study by Brookings, as major a problem.

It's been even less under the new title VI than a lot of people had been concerned that it was.

Mr. ANDERSON. I might also add that by virtue of just the Department's own activities through its regional offices, that the substitution problem—we worked to keep the substitution problem at a minimum. The federally authorized representatives are out looking at that. The forms that the prime sponsors are required to submit through the regional offices help us to keep an eagle eye on the question of substitution, so that contrary to the assumption that is made in a variety of areas about substitution, we have not been able to find that substitution represents a major problem.

Senator EAGLETON. Refresh my memory. What are the penalties, if somebody is guilty of substitution? What happens?

PENALTIES FOR SUBSTITUTION

Mr. ANDERSON. The dollars that are identified as having been used relative to substitution are returned to the Federal Government, and we ask that the individuals who were so substituted be removed from the program.

Senator EAGLETON. But we are awaiting this Brookings analysis which will come this spring. But your early indications are that this isn't as much a problem as we sometimes hear and think it is. I hear the word "substitution" all the time.

Mr. GREEN. We think that the procedures now, the project's concept, as well as who we are focusing in on, has gone a lot to reduce this as a problem over the previous PSE program.

Senator EAGLETON. Again, on this supervisory business, substitution and misuse of funds, et cetera, in the report last fall to the Committee, Secretary Marshall indicated he felt current statutory provisions were adequate to impose penalties for misuse of Federal funds. The question then, is in how many instances has the Labor Department imposed penalties by actually withdrawing Federal funding from project sponsors under the CETA?

THE NUMBER OF PENALTIES ISSUED

Mr. GREEN. I don't have the exact dollar amount. However, our more notorious or more publicized case involved a prime sponsor in the Midwest, a large city in the Midwest.

Senator EAGLETON. We will call it "City X," but tell us what happened.

Mr. GREEN. The question of ineligible enrolled in the program, and that it represented a little bit less than $1 million that we recovered. That particular program sponsor paid back that out of capital budget funds to the Labor Department. So that was one instance in which our penalty process did work and in which we recognized the problem and were able to catch up with it.

Mr. ANDERSON. I might add, Senator, that during the past year, through the regional offices, we have looked at in excess of 100 separate cases, where there was a question of substitution. The regional offices monitored those situations very carefully, including the prime sponsor in the Midwest, the Department has recaptured some $1.4 million this year relative to the substitution question, based upon our monitoring efforts.

Senator EAGLETON. Has anybody ever done a cost-benefit ratio, in terms of—compared the number of hours—I am for recapturing, if somebody's doing something wrong, recapture it, but compare the man-hours and expenses that have gone into recapturing the $1.4 million?

COST-BENEFIT RATIO FOR RECAPTURING FUNDS

Mr. ANDERSON. Given those 100 cases and $1.4 million, we spent some 2,300 days of staff time that had to go into that. The problem is defining "substitution."

It would be necessary to go back and take a look at city staffing, city hiring, city financial patterns over a long period of time, in

order to establish whether or not substitution, in fact, has taken place. And that requires an awful lot of time.

Mr. GREEN. I would argue, Senator, that the unknown of that is how many instances that we were stopped by that process.

Senator EAGLETON. That's right.

Mr. GREEN. I think a cost-benefit analysis of that unknown may have—it may have deterred 90 percent of the other actors not to perform in that manner.

Senator EAGLETON. Do you have sort of a spot check basis that you use in different areas? Are there some telltale signs that raise little red flags that put you on alert?

Mr. GREEN. We have questionable activities reports filed with our national office by regional people. And they come from field visits, they could come from an inquiry from some citizen. They could come from any number of sources.

We respond to those and check them out to see if we should follow further in an investigation.

Mr. ANDERSON. In addition, Senator, we look for those that the Secretary has solicited. One of the telltale signs is whether or not a community is in fiscal or financial difficulty and if layoffs are taking place. That is when we might find a community more prone to involve itself in substitution than in any other.

When that is determined or when it is picked up in a newspaper or marked by regional office officials then, of course, that federally authorized representative begins to watch that situation very carefully so that new people being brought on are looked at closely with regard to whether or not it does represent substitution.

We might also add that public unions are of great assistance in that. They monitor their local situations very, very carefully to make sure there is no erosion in their rolls by virtue of the community using substitution at the detriment of its ongoing labor force.

Senator EAGLETON. What is the progress of the special review team aimed at preventing fraudulent use of employment training program?

SPECIAL REVIEW

Mr. GREEN. The special review team is organized at the Secretary's office level. I have expanded my Office of Investigations and Compliance as indicated in here. There are 24 staff positions requested to increase that process, as well as presently filling some additional 10 staff people, one in each regional office to augment investigation and compliance at the regional office level.

Senator EAGLETON. I might add that Senator Chiles, who had hoped to be here, some of these questions are suggestive of his interest in this area.

Has the review team been able to track down other violations of either law or regulation?

Mr. GREEN. The review team has concentrated primarily on what I would consider the worst of the offenders. We have through augmenting our own investigation and compliance area within CETA been able to track cases that are not of a substantive nature.

Senator EAGLETON. Did you just tell me you are adding one additional investigator for each regional office?

Mr. GREEN. At the regional level.

Senator EAGLETON. At the regional level.

Mr. GREEN. And in the staffing request here we are identifying 24 new slots to go into the investigation and compliance unit.

Senator EAGLETON. I know there are limits in budgetary dollars and the like, but one investigator, take my region, a four-State region, what can one investigator do?

Mr. GREEN. The bulk of the interface with CETA sponsors is done by a Federal representative. There are some 460-odd Federal representatives spread throughout regional offices, they would augment those individual's ability to recognize—to be able to strengthen our investigative procedures.

Senator EAGLETON. We will move on here.

Skill shortage occupations. What does the department do to assure the sponsors of providing training in occupations where skilled shortages exist?

SKILLED SHORTAGE OCCUPATIONS

Mr. GREEN. We are proceeding with a number of activities. One, through our national contracts we have identified a number of occupational areas where there are skill shortages.

One that comes to mind is mining. We just signed a national contract with Kennecott Copper to establish skills training for miners.

In other shortages areas we are proceeding both with our national efforts, national contract efforts, our hire program is one that moves in that direction and the local prime sponsor efforts, as they identify local skill shortages in their particular community.

Mr. ANDERSON. I might add, Senator, that under title I when a prime sponsor submits his plan for title I activities for the ensuing year, there are a number of planning factors we expect to see in those plans one of which is that where training is taking place, to identify as carefully as possible skill shortages relative to such training needs.

Senator EAGLETON. Last fall there was a flood in Kansas City. Several lives there lost. Then an article appeared in a paper dated November 6, "Wanted, some steady workers for $603 a month jobs." The article at some length describes that there were 350 of these jobs available, $750,000 was available for them and they couldn't fill them.

I don't know if you are aware of this particular item. But it caused me to give some attention to it. Why was it that there were these jobs available, not that $603 is going to make you a millionaire, but that these jobs would go begging?

Mr. GREEN. I am not familiar with that particular case. Some of our temporary short term PSE jobs such as in New York, we had lines of people for them. I don't know what the unemployment rate was in Kansas City at that time.

Mr. ANDERSON. If I might add, Mr. Chairman, in that particular instance, when the difficulty occurred, the city of Kansas City was already involved in its public service employment buildup. It was involved in very aggressive hiring under regular title VI programs. And given that kind of heavy activity within the prime sponsors staff, it was slow starting up.

But as of November 22 our reports show that there were 427 individuals on board in that particular effort for that flood relief activity.

As I said, by November. And in spite of the slow startup, that activity went well above its original mark.

Senator EAGLETON. So you are saying that that article was right as of the day it was printed, which was early November, but that by late November those slots had been filled?

Mr. ANDERSON. That is right. Our regional office reported to us that there were some 427 individuals on board as of November 22.

Senator EAGLETON. In December of last year black unemployment was at a rate of around 14 percent, double the overall jobless rate. And nearly 40 percent of black teenagers were out of work. Secretary Marshall has outlined the problem as was described in a lengthy article, November 28, 1977. I guess it is from the Wall Street Journal. It looks like it. I don't know if you have seen it. The number of blacks seeking jobs has grown faster than the number of white job seekers, new jobs are increasing in the suburbs, the cities don't promote jobs. Realistically then, how much can we expect the Labor Department programs to reduce the high rate of unemployment for blacks.

RATE OF UNEMPLOYMENT FOR BLACKS

Mr. GREEN. Well, I think the differential between the December figures and the January figures showed black unemployment overall at about 12.9. It had gone down a little bit less than 2 percentage points.

We think that long-term process, greater emphasis on targeting would move us more toward the issue of structural black unemployment. We have the new Youth and Demonstrations Act that is under way now that will have an important impact on black teenage unemployment.

And that the issues that we have been speaking of, moving the PSE program, keeping it at a high enough level, being able to transition out, all the essentials to getting to the question of high black unemployment.

So we feel confident that our program slots, total numbers, that we have seen an increase in PSE titles II and VI.

Black doubles the participation. As we go further into the stimulus activity we expect that to increase even further. So that our trends are that we are getting more at the issue of black unemployment.

Senator EAGLETON. Well let's hope that trend continues; 12.9 percent is an improvement over 14 percent. But, so much more has to be done.

We do have some additional questions we will submit to you, Mr. Green, for the record.

I have one additional question I will ask myself.

TRADE ADJUSTMENT ASSISTANCE

Did you say something in your testimony about trade adjustment assistance?

Mr. GREEN. No, sir.

Mr. HEWITT. Not today.

Senator EAGLETON. She will ask the question for me.

Ms. MCCORD. Under the 1976 Unemployment Compensation Amendment when it was broadened to include agriculture, what kind of impact has this had?

I know that it is new.

Mr. HEWITT. That law took effect on January 1 of this year.

Mr. GREEN. So it is too early.

Ms. MCCORD. Then nothing really.

Mr. HEWITT. They are starting to collect taxes from covered employers.

Mr. GREEN. It is too early to say.

SUBMITTED QUESTIONS

Senator EAGLETON. I have additional questions which I will submit to you to be answered for the record.

Thank all of you for your appearance here today.

[CLERK'S NOTE.—The justification material for these accounts appears in the House fiscal year 1979 Labor-HEW Appropriations Subcommittee hearing record.]

[The following questions were not asked at the hearings, but were submitted to the Department for response subsequent to the hearing:]

CETA RETIREMENT BENEFITS

Question: Please comment on the following letter from the Washington Federation of State Employees to Senator Magnuson, concerning retirement benefits for CETA participants.

The Washington Federation of State Employees, AFL-CIO
State Headquarters
201 West Fifth Avenue, Room 401
Olympia, Washington 98501

January 20, 1978

The Honorable Warren G. Magnuson
United States Senate
Senate Office Building
Washington, D.C. 20035

Dear Senator Magnuson:

Re: Retirement Benefits for CETA Participants
Department of Labor Regulation, Section 98.25

I am writing on behalf of the Washington Federation of State Employees to seek your assistance in solving a problem involving the Department of Labor's regulations governing retirement coverage for CETA participants. I refer specifically to Section 98.25 (see Attachment #1) which provides that unless a CETA participant vests in the retirement system in which he is participating, the funds paid in by the employer, as an employer contribution to the retirement system, must be refunded to the CETA program.

This revised regulation became effective on October 1, 1977. Prior to that date CETA participants were treated the same as all other employees in public employment in this State and were therefore included in the retirement program the same as all other employees.

The State is now advised that if they do not get into compliance with Regulation 98.25 by October 1, 1978, they will not only have to refund the employer contribution on those CETA's in the program since October 1, 1977, but in fact will have to refund all employer contributions on employees not vesting back to the inception of the CETA program.

I would also refer you to Section 208, Sub (a), Sub (4) of the CETA regulations (see Attachment #2) which clearly spell out that CETA participants were to be treated the same as all other employees insofar as benefits were concerned.

It would therefore appear to us that the Department of Labor Regulation 98.25, Retirement Programs, is in direct conflict with the CETA legislation, Section 208, Sub (a), Sub (4), in that the Section 208 directs that the employee shall be equally covered by all the benefits that all other employees have and then the Department of Labor comes along with 98.25 of their regulations and says that, "No, they shall not be treated the same insofar as the retirement program is concerned

In addition to this conflict, this regulation creates a severe problem insofar as the Public Employees' Retirement System in the State of Washington is concerned, in that the actuarial soundness of the system is dependent upon the employer's contribution on employees who do not vest and who withdraw their contributions staying within the system. In developing the actuarial soundness and financing of the system since its inception, it has been required by statute that the monies paid in by the employer on those employees who chose to withdraw their contributions because they have less than five years of service and had not vested or chose to withdraw their contributions even though they were vested but did not wish to exercise their right to draw a monthly benefit under the system, would stay within the Fund and go towards the financing of the system.

I would also point out that it is the goal of the CETA program, as I understand it, to transition as many of these employees as possible into the regular service, and if this is the case, it seems to me that participation in the Retirement System is a legitimate part of the benefit structure.

The best solution to this problem that we have been able to find would be for the Department of Labor to rescind their Regulation 98.25 that became effective on October 1, 1977. It would appear to us that the program is working very effectively as far as the employees participating in the various benefits and we would urge that the regulations be returned to the status that they were prior to October 1, 1977.

We would appreciate very much your reviewing this matter and taking whatever steps might be available to encourage the Department of Labor to rescind Section 98.25.

Your assistance on this matter is greatly appreciated.

Sincerely,

George D. Masten
Executive Director

Answer: The State of Washington has been granted an extension until October 1, 1978 to come into compliance with the revised CETA retirement policy. If they fail to comply by this date, the Department will then consider whether or not to require retroactive retirement payments for non-vested participants since October 1, 1977 (the effective date of the policy), taking into account the efforts made by the State to comply. In no case would the Department ever require retroactive payments for employees made prior to the October 1, 1977 effective date of the policy.

The Department of Labor revised retirement policy is not in conflict with section 208(a)(4) of the Act. It is still required that CETA participants receive the same benefits as those similarly employed. However, in the case of retirement benefits, it does limit the use of CETA funds for payment to retirement plans in which the CETA participant will benefit. Retirement benefits for non-vested participants

necessitated under section 208(a)(4) must be paid from local funds.

The rationale for this policy rests upon the Departmental determination that participation in retirement programs, especially for public service employment positions of limited duration, is not the most effective way to use public employment funds. Not only does such participation greatly reduce the amount of money available for jobs, but in many cases it has been found that the money was not providing any real benefit to the CETA participants.

Question: Do you plan to rescind section 98.25 of the October 18, 1977, federal register CETA regulation? What other actions will you take to resolve this problem?

Answer: The Department has no plans at this time to rescind the policy. The regional office is working closely with the State of Washington to resolve their problems. National ETA staff have also met with members of the Governor's staff on the matter.

Staff are currently working on a field directive to all prime sponsors suggesting acceptable strategies for complying with the retirement regulations. This directive is being closely coordinated with The American Federation of State, County and Municipal Employees.

MINIMUM WAGE

Question: Please provide a table indicating for each of FY 1978 and FY 1979 the amounts needed, by title, under the Comprehensive Employment and Training Act, to maintain current enrollment levels at the new minimum wage rates.

Include specific amounts needed for both the Summer Youth Jobs program and the new youth bill.

Answer:

Amounts Needed by Title for Fiscal Years 1978 and 1979
Under the Comprehensive Employment and Training Act
to Maintain Current Enrollment Levels at
the New Minimum Wage Rates
(Dollars in thousands)

	1978	1979
Title I	$ 71,400	$ 75,300
Title II	7,500	7,900
Title III	5,140	5,422
Title VI	36,000	37,800
Summer Youth Program	98,600	122,100
New Youth Programs	30,900	39,500
TOTALS	249,540	288,022

OVERSIGHT AND EVALUATION

Question: What action has the Department taken to monitor and evaluate the State and local employment and training programs authorized under title I of the Comprehensive Employment and Training Act?

Answer: Monitoring of title I programs is a routine part of Department of Labor regional office operations. In addition, a formal performance assessment is conducted each year prior to sponsor refunding. Subjects covered include program activities, types of participants served, program results, and compliance with the Act, regulations, and sponsor's annual plan. In instances of serious problems, refunding may be delayed until requisite corrective action is accomplished. For both monitoring and formal assessment, the national office provides basic requirements and documents that regional offices may then adopt for their individual usages.

Question: Has the Department developed standards with which to evaluate employment and training programs?

Answer: Individual prime sponsor performance is judged primarily against the goals defined in the sponsor's annual plan. To ensure that goals are reasonable and worthwhile, the Department has established key performance indicators and grant application review guidelines. The indicators, which relate primarily to program results, are measures that are used to analyze the plans and performance of every prime sponsor. Grant application review guidelines provide numerical ranges of generally acceptable performance on the indicators. Regional offices utilize the numerical ranges in reviewing prime sponsor goals prior to annual plan approval. Once a grant is approved, comparison of actual performance against goals in terms of indicators becomes a regular element in monitoring and assessment.

Question: Can the Department readily evaluate the effectiveness of prime sponsor performance in such training activities as classroom training, on-the-job training, and work experience in terms of placements of participants into unsubsidized jobs and the cost per placement?

Answer: The prime sponsor reporting system does not contain placement information by type or activity. With local determination allowed on the level to which each activity is funded, presumably to the optimum level for the specific area, the judgement of the effectiveness of the individual activity is not as important as the overall effectiveness of the combined activities. For instance, on-the-job-training may show a higher placement rate than classroom training in one area, and less effectiveness in another locality. Increasing on-the-job-training, even in the effective area, can result in no improvement in efficiency. Since the Department does receive requests concerning effectiveness, the feasibility of substantially revising the reporting system to include items to judge each activity's effectiveness is being considered.

Question: Are you comparing the effectiveness of programs conducted by project sponsors of the same class, of different classes and similar national office programs? How is this done? Do you have

published performance standards?

Answer: Individual prime sponsor performance is judged primarily against the goals defined in the sponsor's annual plan. To ensure that goals are reasonable and worthwhile, the Department has established key performance indicators, which relate primarily to program results, and are measures that are used to analyze the plans and performance of every prime sponsor. Grant application review guidelines provide numerical ranges of generally acceptable performance on the indicators. Our regional offices utilize the numerical ranges in reviewing prime sponsor goals prior to annual plan approval. Once a grant is approved, comparison of actual performance against goals in terms of indicators becomes a regular element in monitoring and assessment. No performance standards on a national basis exist.

Comparison of program effectiveness of similar types of prime sponsors and of regular Employment and Training Administration programs with national office programs has been done with no real differences found.

Question: Do you believe that CETA provides Labor with sufficient corrective action-authority to fulfill its federal oversight responsibilities? Do you believe the required judicial review process and the revenue sharing nature of the allocation formula inhibit Labor from taking stronger corrective actions?

Answer: Yes. CETA provides such authority in that grants may be terminated in whole or in part as described in Section 98.16 of the CETA regulations. While such action will normally be preceded by a hearing, the Secretary may in emergency situations, where he believes there has been illegal use of funds, suspend the program immediately with a hearing to follow.

CETA also provides the Secretary with the authority to reallocate funds based on non-performance, or where it does not appear that funds will be fully utilized.

The Secretary also may withhold the approval of a grant if it does not meet the requirements of the Act or regulations, or where it is determined that the prime sponsor did not demonstrate maximum efforts to meet its previous year's plan.

Accordingly, we do not believe that the judicial review process or the formula allocation approach inhibit the capacity of the Department of Labor to take appropriately strong corrective actions.

TECHNICAL ASSISTANCE

Question: Much of Labor's guidance to the prime sponsors is in the form of published technical assistance guides which do not have the force that regulations have. To increase the effectiveness of Labor's Federal oversight authority and to assure more uniform practices by the project sponsors, do you believe the technical assistance guides should be regulatory rather than advisory in nature?

Answer: The thrust for federal regulations is to reduce and simplify, not to expand so as to incorporate materials provided as guidance to prime sponsors. This distinction, between regulations and guidance should be maintained so that the legal requirements are comprehensively described, but held to a minimum. Guidance through

Technical Assistance Guides should provide maximum latitude in local planning, which is at the core of the decentralized concept.

ENROLLING THE DISADVANTAGED IN PUBLIC SERVICE JOBS

Question: At the request of the Committee, you supplied a table indicating that nearly 50 percent of the public service jobs enrollees under title VI of the Comprehensive Employment and Training Act are in "targeted projects," which require enrolling the long-term, low income unemployed. How is this data collected and how reliable is it?

Answer: Under title VI, prime sponsors are bound by regulation and law to fill all project slots and at least 50 percent of their other title VI vacancies with low-income, long-term unemployed persons. It is the prime sponsors's responsibility to develop adequate procedures to ensure that these eligibility requirements are being met.

Data are not collected through regional or national reporting systems specifically on the number of participants meeting the long-term unemployed low-income eligibility requirements. Prime sponsors do collect and maintain records in their local systems to provide a basis for verifying their compliance with the law and regulations regarding these eligibility requirements. The Regional Department of Labor offices during their normal monitoring process, review prime sponsor compliance with eligibility requirements, as they do with all other program requirements. In addition to monitoring, Employment and Training Administration programs are subject to audit reviews which cover a check on compliance with participant eligibility requirements.

RELATIVE COST OF PUBLIC SERVICE JOBS

Question: What is the cost of a public service job under the Comprehensive Employment and Training Act in comparison to other Federal job creation programs, such as public works and general revenue sharing?

Answer: We do not at this time have an answer since this demands a study on comparable costs. For instance, if the public works program costs take into account purchases of equipment, materials and supplies but do not count the secondary job creation effects, the actual cost per total job would not be known and public works costs relative to the cost of public service jobs would be overstated.

For public service employment positions under the Comprehensive Employment and Training Act, the average cost per position has been approximately $8,000 per position over the past three years, with the cost for Fiscal Year 1978 averaging $8,900 per position and the cost in Fiscal Year 1979 estimated at $9,200 per position.

NEW CETA LEGISLATION

Question: Does your budget request reflect the Administration's proposals to revise and extend the Comprehensive Employment and Training Act through Fiscal Year 1979?

Highlight the major changes being proposed to revise the CETA legislation and how they impact on your budget requests.

Answer: The Administration's proposals to revise and extend the Comprehensive Employment and Training Act have not yet been finalized. Currently, a Department of Labor draft bill is in the review and comment stage. However, we expect that the Administration proposal will be ready for transmittal to the Congress later this month.

The aim of the proposed revisions to CETA is to make the program more effective through better targeting of resources, simplification of administration, and other changes based on four years' operation of the program. The changes which will be proposed do not impact on the Fiscal Year 1979 budget request except for the $400 million request for a private sector jobs initiative and the $200 million request for a welfare reform demonstration program.

SKILL SHORTAGE OCCUPATIONS

Question: What does the Department do to assure that the sponsors are providing training in occupations where skill shortages exist?

Answer: The annual grant application review and approval process, as well as regular monitoring and yearly assessment by the regional offices, assure that training is provided in skill shortage occupations. In the application, sponsors must explain occupational and industrial trends in their jurisdictions and must identify areas in which training will be provided.

WELFARE REFORM ENROLLMENTS

Question: How many jobs do you estimate will be created through your proposed welfare reform experiments?

Answer: It is planned that with a gradual buildup in project activity during Fiscal Year 1979, there will be 50,000 newly created jobs by the end of that year, and this level will be maintained during Fiscal Year 1980. It is estimated that approximately 50,000 persons will be served by these slots in Fiscal Year 1979 and 100,000 in Fiscal 1980, on the assumption that two individuals per person-year will be served, due to turnover and transition to nonsubsidized jobs.

Question: How long will these projects last, and when do you expect to be able to compare results?

Answer: It is planned that the Welfare Reform Pilot Projects will become operational no later than spring 1979 and run for a minimum of two years. Some information on project operations--linkages between the different agencies involved in delivering the services, the feasibility of the large-scale job creation required, and the like--should be available as early as fall 1979. Information on the impact on participants' employment, earnings, and welfare status while in the projects should be available by spring 1980, and initial followup data on the first year's participants should be available by spring

1981. Final analyses of project operations, costs, impacts, and outcomes will be done during fall-winter of 1981. However, the earlier data on project operations and in-program impacts should be sufficient to provide valuable input for facilitating nationwide implementation in 1981.

Question: It appears that participants in the Work Incentive Program are no more likely to leave welfare than are nonparticipating registrants. What leads you to believe you would have greater success than the WIN program under the Administration's proposed welfare reform "Better Jobs and Income Program?"

Answer: The Better Jobs and Income Program would correct some of the deficiencies that now limit the incentive to work for recipients under current welfare programs. Under current programs, eligibility limitations have resulted in the existence of substantial "notches" or situations in which people suffer total losses in benefits when they take a job which may provide them with little more than minimum wages and few fringe benefits.

Under the Administration proposal, the first $3,800 of earnings will be disregarded in computing eligibility for cash assistance. Beyond that point, a 50 percent benefit reduction rate applies.

In addition, the Administration proposal provides an expanded Earned Income Tax Credit for persons in regular economy jobs.

Question: What are the basic assumptions that 2.5 million individuals would hold the 1.4 million public service jobs over the course of a year? What problems would such turnover create for the Administration and, especially, the productivity of the public jobs program?

Answer: Our estimates of turnover are based on earlier experience with public service employment programs and with the income maintenance experiments. On this basis, we project that 2.5 million household heads who are parents will move through the job training slots under the Better Jobs and Income Program annually. We estimate that the average duration will be about 6 months.

The projected turnover is not particularly high. It will be necessary to have individuals cycled through the subsidized jobs and into the regular economy which is the ultimate objective of the program. The subsidized job slots themselves need not be considered temporary, however. If an agency were allocated one Home Health Care Aide, they could expect to have that slot indefinitely even though several individuals might occupy it in the life of the program.

Question: What do you estimate would happen to employment opportunities and wage rates for low-skill, low-wage workers not eligible for welfare reform public service jobs (e.g., youth, spouses): And what do you expect the reaction of organized labor to be to this?

Answer: Programs aimed at dealing with the structural unemployment programs of other groups such as youth will continue to exist, apart from the Better Jobs and Income Program. One of the reasons for keeping the subsidized wage rate low is to minimize the competition with regular economy jobs. We are projecting that the demand for jobs

from eligible parents will be approximately 1.4 million whereas there are more than 6 million persons working in minimum wage jobs now, so we do not anticipate a major impact. If anything, we would expect that the cash assistance benefit which would be available to supplement the minimum wages of eligible parents who take jobs in the private sector and who have the Earned Income Tax Credit available, would increase the attractiveness of such jobs.

Labor unions have expressed concern about minimum wage jobs being established in the public sector which would undermine existing public wage structures. Clearly, such competition would have to be avoided by establishing jobs outside the normal State and local government structures.

IMPACT OF WELFARE REFORM ON EXISTING JOBS

Question: What precautions would be taken to avoid competition with existing private and regular employment, competition which might lead to labor union objections and to displacement resulting in little net job creation.

Answer: The problem of substitution under the Better Jobs and Income Program is not expected to be as serious as it has been under title VI because the lower wage level requires that jobs be set up outside regular State and local government structures. The holders of special public jobs will be expected to participate in an active job search in the unsubsidized job market which will minimize competition with the private sector.

Question: How would the CETA Title VI public service jobs program be affected by this new welfare reform public service employment program?

Answer: The Special Public Jobs component of the Better Jobs and Income Program is aimed at providing guaranteed employment to a specific group of persons--one parent in a family with children under 18. Its objective is to deal with the needs of a segment of the structurally unemployed. It is not intended to serve as a major countercyclical program as title VI was. Economic conditions will dictate whether a separate title is warranted which would authorize countercyclical public service employment.

WELFARE REFORM JOB TRAINING

Question: Will welfare reform public service jobs have an effective training component to facilitate the transition from public to private employment?

Answer: Decisions on the mix of training, work experience and jobs will be made at the local level by prime sponsors. The option of providing training instead of a job will be at the discretion of the local sponsor depending upon labor market conditions and the skills of the participant. In addition to the resources available under the Special Jobs program, funds under title I will also be available through the prime sponsor to supplement local training capability.

WELFARE REFORM ENROLLEE WAGES

Question: Can you explain why in the welfare reform proposal concerning public service jobs, the wage standard chosen was the minimum wage as established under the Fair Labor Standards Act, instead of the prevailing wage?

Answer: The minimum wage has been proposed for Special Public Jobs so that they will not be so attractive that they will compete with regular economy wages, thereby encouraging more participants to enter the program.

Question: Do you plan to test out both paying the minimum wage and prevailing wage rates?

Answer: The purpose of Welfare Reform Pilot Projects is to identify and resolve any operational problems involved in implementing the jobs component of the proposed Better Jobs and Income Program--i.e., to "get the bugs out of the system" prior to national implementation, thereby facilitating its smooth implementation on a nation-wide basis. Thus, the intention is to adhere as closely as possible to the design of the Better Jobs and Income Program, including the wage rates on the new public service jobs. The Better Jobs and Income Program calls for the minimum wage, with a 10 percent supplement permitted in some cases, and a 25 percent supplement for certain supervisory jobs. The pilot projects will follow this design, and will not test out prevailing wage rates.

WELFARE REFORM ENROLLEE BENEFITS

Question: What, if any, would be the fringe benefits associated with welfare reform public service jobs?

Answer: Fringe benefits for Special Public Job holders will be limited to Social Security and workers' compensation. A factor of 30 percent has been built into the program to cover all overhead.

Question: If the minimum wage is enacted as the wage standard, how do you propose to prevent welfare workers from ending up working side-by-side with CETA public service jobs enrollees doing the same job but whose wages and benefits are higher?

Answer: Clearly, such competition could not be permitted. Jobs for participants in the Better Jobs and Income Program would be established outside the regular State and local government structures. We have identified a number of types of jobs which would result in new or expanded community services and which could be provided by relatively low-skilled persons. We expect to make extensive use of community-based organizations as host agencies for these jobs.

WELFARE REFORM COST

Question: Your current estimate for the cost of the jobs program is $2.8 billion more than the cost of the current system. Don't you think this figure too low?

Answer: Cost estimates for a program this complex are subject to

error. The Administration has tried to minimize error by inviting States to develop their own cost estimates and check them against national data. In the process of developing our estimates we have made certain demographic and economic assumptions over which honest differences exist. The cost estimates recently made by the Congressional Budget Office, while different from the Administration's, are not necessarily in conflict with them. The Congressional Budget Office used a different base year, different program phase-in rates and other different assumptions.

SUBCOMMITTEE RECESS

Senator EAGLETON. We stand in recess until tomorrow, 10 o'clock, in the Capitol, room S-128.

[Whereupon, at 3:23 p.m., Monday, January 30, the subcommittee was recessed, to reconvene at 10 a.m., Tuesday, January 31.]

DEPARTMENTS OF LABOR AND HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1979

TUESDAY, JANUARY 31, 1978

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 10:06 a.m. in room S-128, the Capitol, Hon. Edward W. Brooke presiding.

Present: Senators Brooke, Eagleton, and Chiles.

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

YOUTH PROGRAMS

STATEMENT OF ERNEST G. GREEN, ASSISTANT SECRETARY FOR EMPLOYMENT AND TRAINING

ACCOMPANIED BY:

ROBERT J. McCONNON, DEPUTY ASSISTANT SECRETARY FOR EMPLOYMENT AND TRAINING
WILLIAM B. HEWITT, ADMINISTRATOR, OFFICE OF POLICY EVALUATION AND RESEARCH
ROBERT ANDERSON, ADMINISTRATOR, OFFICE OF COMPREHENSIVE EMPLOYMENT DEVELOPMENT
T. JAMES WALKER, ACTING ADMINISTRATOR, OFFICE OF ADMINISTRATION AND MANAGEMENT
JOHN F. SHINE, BUDGET OFFICER, OFFICE OF ADMINISTRATION AND MANAGEMENT
WILLIAM R. REISE, COMPTROLLER FOR THE DEPARTMENT
CHARLES E. PUGH, DIRECTOR, OFFICE OF BUDGET
ROBERT TAGGART III, ADMINISTRATOR, OFFICE OF YOUTH PROGRAMS

YOUTH PROGRAMS

Senator BROOKE. The subcommittee will come to order.

Today we continue with hearings on fiscal year 1979 Labor Department appropriations requests.

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This morning we will focus on youth programs under the Comprehensive Employment and Training Act, for which $1.9 billion is requested to support 1.2 million enrollees.

In addition to the Job Corps and summer youth jobs programs with which we have become familiar over the past 10 years, we will be looking at four new youth programs created last year under the Youth Employment and Demonstration Projects Act.

Here to testify is Assistant Secretary for Employment and Training, Ernest Green.

You may introduce your associates and proceed with your statement.

Mr. GREEN. Thank you very much, Mr. Chairman.

INTRODUCTION OF ASSOCIATES

To my left is Chuck Pugh from the Department, fiscal area. Bill Reise also from the same area.

Bill Hewitt is in charge of our research and demonstration activity, evaluation.

To my right, Bob Taggart, in charge of the youth program. Jim Walker, director of our management area, and John Shine, his associate.

Mr. Chairman, I appreciate this opportunity to appear before you today to present the 1979 budget requests for employment and training programs specifically designed for youth. The programs I will cover include the four new youth programs, namely, the young adult conservation corps, the youth community conservation and improvement projects, the youth incentive entitlement pilot projects, and the youth employment and training program, authorized by the Youth Employment and Demonstration Projects Act of 1977.

I will also cover the traditional summer youth program for disadvantaged youth and the Job Corps program. The purpose of these special programs is to provide employment and training assistance for unemployed youth, particularly economically disadvantaged and out-of-school youth.

For fiscal year 1979, we have requested sufficient funds for these special youth programs to allow a 47-percent increase in outlays over the 1978 projected level. When one considers these programs, as well as other Comprehensive Employment and Training Act programs serving youth, the Department has greatly expanded its youth programs, both in terms of dollars and people served. Since unemployment continues to be at unacceptably high levels for youth, we hope to make substantial inroads through these programs, not only in terms of reduced unemployment for youth, but also in terms of improved knowledge on how best to deal with their special employment problems.

The purpose of the Youth Employment and Demonstration Projects Act of 1977 is to provide immediate employment for those youth most in need to enhance the long-term employment prospects of these youth, and to test innovative program designs and experimental approaches as components of a national youth strategy.

A total of $1,311,234,000 will be available for the new youth programs in 1979, of which $930,896,000 is requested in new obligational authority and $380,338,000 is from unspent carryover funds.

These programs were forward funded in 1978 from the 1977 Economic Stimulus Appropriations Act and, therefore, no new budget authority was provided in fiscal year 1978.

By the end of this fiscal year, we expect to attain an enrollment level of 157,600 participants: 25,500 in the young adult conservation corps; 17,500 in the youth community conservation and improvement projects; 18,000 in the youth incentive entitlement pilot projects; and 96,600 in the youth employment and training program.

With the exception of the entitlement projects, the youth programs will be continued during fiscal year 1979 at the participant level expected to be reached by the end of fiscal year 1978.

The entitlement projects will be increased from the 18,000 enrollments expected by the end of this year, to 27,700 by the end of fiscal year 1979.

IMPLEMENTATION OF PROGRAMS

This is the first year of operation for the programs authorized under the Youth Employment and Demonstrations Act of 1977, so there is little experience we can share with you today.

Activities during the first part of this fiscal year have centered around administrative startup, development of plans, and initial program implementation. Enrollments began in December 1977 and early January 1978.

Youth entitlement project sites were selected and will be funded in late January, or early February 1978, and enrollments will begin shortly thereafter.

In order to fully test the entitlement concept, seven large-scale projects were funded to attempt saturation of specific jurisdictions. Ten smaller sites were chosen to test special program approaches.

The projects will operate in selected communities and will guarantee a job to all young economically disadvantaged residents who are in school or willing to return to school.

The aim of these projects is to test the concept of job guarantees as an incentive for youth to finish high school under varying geographic and economic circumstances.

SUMMER YOUTH EMPLOYMENT PROGRAM

The Summer Youth Employment program provides jobs for economically disadvantaged youth aged 14 to 21 during the summer months. The budget request for this program totals $740,200,000, which is an increase of $47,200,000 over the $693 million provided in fiscal year 1978. The amount will provide 1 million 9-week part-time job opportunities at a minimum wage of $2.90 per hour. This is marginally below the job level which is planned for the summer of 1978, and the same job level which was funded in the summer of 1977.

Funds for the summer youth employment program are allocated by formula to State and local prime sponsors and Indian organizations. Participants are placed in a number of agencies, including schools, libraries, community service organizations, and private nonprofit agencies. The participants serve in positions such as nurses aides, teacher aides, cashiers, surveyors, graphic artists, and counselors. Some enrollees are placed with local universities where

they participate in a variety of research and other educational projects related to their interests.

JOB CORPS

The Job Corps provides severely disadvantaged youth aged 16 to 21 with a comprehensive program of basic education, vocational training, job placement, medical support, and other services primarily in a residential setting.

The fiscal year 1979 request for Job Corps totals $296 million, which is a reduction of $121 million from the $417 million provided in fiscal year 1978.

However, an additional $212,796,000 will be available for the Job Corps program in 1979 from unspent 1978 funds, providing a total of $508,796,000. The funds will allow the Job Corps program to expand to a 44,000 slot level during 1979. The actual time required to identify, acquire and rehabilitate Job Corps center sites precluded the completion of the expansion envisioned in the economic stimulus program plan during fiscal year 1978.

We do, however, expect to reach the 44,000 capacity level by the middle of fiscal year 1979.

We expect to have approximately 106 Job Corps centers in operation by fiscal year 1979.

Many of the new centers will be located in States which do not currently have centers, such as Massachusetts and Florida, or which have never had a Job Corps center, such as Louisiana. Currently, the Job Corps has 22,800 enrollees in 61 centers. We have selected 23 new sites which should accommodate 8,700 additional enrollees.

Mr. Chairman, this concludes my statement.

I will be happy to answer any questions that you may have.

1978 SUMMER YOUTH EMPLOYMENT PROGRAM LEVEL

Senator BROOKE. Thank you Mr. Green.

Now, the conference report on the fiscal year 1978 Labor HEW bill specifically appropriates sufficient funds for 1,165,000 summer youth jobs. Why didn't you accept this congressional decision rather than proposing 6 weeks after enactment of this bill that 145,000 of these jobs be eliminated?

Mr. GREEN. Well, on the total number of youth served through all of our programs, we were able to increase services on a substantial basis. The request that we included for the summer program covered the increase in the minimum wage. The decision was made that in terms of total numbers served, that we could, with the additional activity under our new youth programs, be able to serve more youth.

Senator BROOKE. How can you say you serve more if you eliminate 145,000 jobs?

Mr. GREEN. The total number that we expect to serve in fiscal year 1979 through our program activities represents approximately 2,542,940 slots. And that would include 1 million summer, 93,300 Job Corps, 421,000 under the new youth program, and almost 1 million served through CETA titles I and PSE II and VI. This is a 12-percent increase over 1978.

And it is a roughly 37-percent change over services in 1977.

Senator BROOKE. You are including other programs. Specifically, youth programs.

Mr. GREEN. Yes.

Senator BROOKE. Those are youth programs. But the other programs you are talking about are not strictly youth programs.

Mr. GREEN. Except, Senator, that in title I of CETA, approximately 52 percent of the individuals served are individuals under 22. Because of increased targeting, we have increased youth participation modestly during the economic stimulus period in titles II and VI of CETA. When I look at services to youth, we are trying to increase all of our program focus on what we all regard as a very severe problem.

I think it is accurate to include all of these programs and their impact on youth employment, and who the individuals are that are served.

I quoted you slot levels. I am sorry, it is individuals. That would be 2,542,940 in 1979 through our various program efforts.

CONGRESSIONALLY MANDATED SUMMER JOBS LEVEL

Senator BROOKE. We take very seriously our conference report. In that conference report, we specifically said that we were appropriating sufficient funds for 1,165,000 summer youth jobs. Then 6 weeks thereafter, you decided to cut them back by 145,000. And then when you failed to request funds to offset the impact of the minimum wage, and rescinded, as I said, the previously submitted $500 million youth supplemental, how can you really say the administration is placing high emphasis on reducing youth unemployment?

Mr. GREEN. Well, Senator, of individuals served before this administration came in, 1977, which was a partial year, total youth served were less than 2 million. We will have increased that by over 40 percent on services to youth and individuals.

I think that the commitment that both the President and Secretary have given has indicated that we are putting resources in all of our programs.

Senator BROOKE. Administratively, everything is relative. I am not asking you to compare your record with the worst. I am asking you to compare your record with what the Congress wants you to do, that is what I am asking you to do.

You are telling me what the prior administration did, and you are better than the prior administration. All you are telling me is that you are better than the worst. That's not sufficient.

You still haven't explained why you feel it is necessary to cut back on what Congress told you to do, and the Congress authorized, and the Congress appropriated for. Then, as I said, you failed to request enough funds to offset the impact of that minimum wage, and then you rescinded that previously submitted $500 million.

Do you realistically expect a significant decline in the level of youth unemployment by the summer of 1979?

Mr. GREEN. By the summer of 1979?

Senator BROOKE. Yes.

Mr. GREEN. We expect to have our program in place, yes. We would expect a substantial decrease in unemployment.

Bob Taggart, who is overseeing our youth activity can speak on some of the new program thrusts that we have, and indicate what impact we expect that to have.

Senator BROOKE. Well, the League of Cities and the National Association of Counties testified that 1,400,000 summer jobs could be effectively used. What do you say about that? Maybe Mr. Taggart, you would want to address that.

Mr. TAGGART. I think in the coming summer we will have a very rapid rate of phaseup. We provide very similar jobs to those under the summer employment program. Because of the short time allowed for implementation of this through this fiscal year, those will be entering into high gear in the summer months.

So, we expect we will be creating jobs very similar to those that would be normally funded under the summer program.

The question of whether $1.4 million can be implemented or not, it is quite clear that if funds were available, that number of slots could be implemented. The question is whether or not we can integrate these with the new programs, and assure adequate supervision.

We are looking for a longrun buildup on this program, looking for what works best for whom. So, we are trying to draw together the summer program as well as the year-round programs. In the community conservation and improvement program, and the youth employment and training programs, most prime sponsors are just getting started in hiring.

The phaseup will be through the spring. Youth conservation improvement is basically a public——

Senator BROOKE. All those are static, Mr. Taggart, as I look at it with the exception of youth incentive entitlement pilot projects where you did increase from 18,000 to 27,700.

But the others remain the same in 1979 as they were in 1978.

Mr. TAGGART. You are absolutely right, sir.

What I was indicating was that in the phaseup this year they will reach their peak in the summer months at the same time we will also have summer employment. So, the combination of the two will assure high levels during those summer months.

MEANINGFUL SUMMER JOBS

Senator BROOKE. Now, Mr. Green, the summer youth employment program authorized under title III of the Comprehensive Employment and Training Act has been criticized for failing to provide useful work. That it is merely a final handout to youth lucky enough to get enrolled.

I am sure you have heard this criticism many times. What actions are you taking to insure that youth are given useful work under this program, and that the enrollees have something to do while on the job? And how are you able to reach through all the layers of prime sponsors, contractors, subcontractors, worksites, and so on to keep abreast of what is happening to individuals, and know what goes on in the summer youth jobs program?

This is important because we have to answer critics of the program time after time, both in committee, and on the floor, as I am sure you are well aware. I think you know from my record that I am not an adversary; I am an ally in this cause.

But you have to give us some information, some evidence on which to work, and I would just like to know how you know whether these programs provide meaningful jobs, and that these young people are actually doing something with their time, rather than just getting a handout.

Mr. GREEN. Senator——

Senator BROOKE. As some have alleged.

Mr. GREEN. I think there are two or three issues we approach. One is the quality of the jobs.

Last summer, we introduced a vocational exploration program that was a pilot effort involving the labor unions and some of the large corporations.

The idea was to provide at various localities work experience, to allow young people, particularly 14 to 15 year olds, to have some idea of various job occupations. It varies in that experience for a 14-year-old is certainly different froms a young person 18 or 19.

We have attempted, as I indicated in the statement, to identify worksites like at universities in research activities. Our other concern, of course, is always the monitoring of the fiscal aspect of it—that people are doing with funds as was expected.

On that side, we have increased our investigative and compliance activity to make certain we have adequate monitoring of the program.

I think it's fair to point out, though, that given the sublayers for a prime sponsor like New York City, there are approximately 900 worksites involved in the summer program counting all the subcontracts and secondary contracts.

We have attempted through our prime sponsors, first, to increase the quality of placement, location of the worksites and who the subcontractors are, and be able to review them so that we can ascertain that they are able to place young people into meaningful jobs.

The second, as I indicated, is the vocational exploration project, which was done on a pilot basis last year and we plan to expand that.

And the third is to increase our ability to monitor the programs adequately.

PROGRAM MONITORING

Senator BROOKE. What mechanism do you have for monitoring the programs?

Mr. GREEN. We utilize the regional staff, which includes our Federal reps, as well as additional staff who augment the oversights during the summer activities.

And one of the items that we are increasing here, I testified yesterday before Senator Eagleton on our staff requests, is to increase our Office of Investigation and Compliance by some 24 additional people.

We have already added 10 people into each of the Federal regions to augment our compliance activity through our Office of Investigation and Compliance.

Senator BROOKE. How many do you have at the present time in compliance?

Mr. WALKER. Nationally, we probably have about 41.

Each regional office, this is just an estimate, probably 4 to 5 people per region.

Senator BROOKE. These 41 go out into the field regularly?

Mr. GREEN. Yes, sir.

Senator BROOKE. In addition to the regional people?

Mr. GREEN. In addition.

Senator BROOKE. You have requested how many additional?

Mr. GREEN. We have requested 24 people.

Senator BROOKE. Twenty-four.

Mr. WALKER. They will be in the regional offices.

Senator BROOKE. You don't intend to increase the national office compliance personnel?

Mr. GREEN. Well, we think the bulk of the activity that is needed is out in the field and that it's best to deploy them out in the field.

Senator BROOKE. I agree. I just wanted to know whether you intended to deploy them.

Are you satisfied that these jobs are meaningful jobs and that they are not just handout jobs?

Mr. GREEN. I think the overwhelming majority of them are meaningful jobs, Senator. I have 1 million young people that were served last year. I certainly did not see a large percentage of the sites. I saw some of the sites.

Bob Taggart, who has been monitoring that, we have, we think, some exemplary programs that were run in a number of places.

Mr. TAGGART. I would like to add——

Senator BROOKE. Bob, have you found any that are not? Have you ever withheld funds?

Mr. GREEN. Yes; one that I was personally involved in.

We requested that a subgrantee of an eastern prime sponsor not be refunded due to improper usage of young people, and inadequate supervision.

Senator BROOKE. What did you find in that case?

Mr. GREEN. Well, that they were mainly involved in nothing that could be considered meaningful. They spent most of their day sitting around. And there was inadequate supervision of the worksite and the young people showed up occasionally on a sporadic basis.

IMPROVING THE SUMMER PROGRAM

Mr. TAGGART. I think monitoring enforcement is one aspect of the problem, but another is that in a centralized system, a lot of that has to be done at the local level.

What was changed last year was to allow planning more in advance, and changed regulations in regard to planning.

We feel that going out into the system not on the basis of a careful analysis, but rather observation locally, that the program did change last summer, that funding at an earlier date allowed them to plan ahead to do a better job, use youth planning counselors.

We are now building into that planning process for next year local assessments of what occurred in the previous year.

That is, to get the prime sponsors locally to look at what occurred and to suggest ways that it could be improved.

In addition to that, we are having evaluation being put in place for this coming summer's program, which will look at worksite, quality of supervision, amount of time on the job, the types of jobs being done across the board to get an idea of what society is getting for its investment, what type of productive work is being done.

We are very concerned with this.

So I think the combination of the planning process and the increased emphasis we will put on in our guidelines for planning, and also the evaluations being done next summer will create a noticeable improvement.

SUMMER PROGRAM INELIGIBLES

Senator BROOKE. Have you found any case of misappropriation of funds?

Mr. GREEN. I would say the biggest problem of the program has been enrollees being ineligible. That has been a problem and we have a number of cases pending in which we are recapturing funds where we found ineligibles.

That has been an area in which the Secretary, through compliance and enforcement, has stepped up this activity.

Senator BROOKE. How widespread is that activity?

Mr. GREEN. Not much. The experience factor, out of the 450-odd prime sponsors, it has not been widespread.

Senator BROOKE. Did you take action when you found it——

Mr. GREEN. Yes, sir, we did.

Senator BROOKE. When you found there were ineligibles being funded?

Mr. GREEN. Yes, we have.

I don't have all the examples, but one comes to mind right away. A city in the Middle Atlantic area in which we are recovering funds on ineligibles right now. And they are having to repay back to the Department for that.

Senator BROOKE. How do you go about recovering?

Mr. GREEN. With our own process. We investigate the records and check enrollees or do a sample of that.

Once attaining that and sitting down with the prime sponsor and indicating what we have found, we usually are able to come to agreement and recover on our own.

There have been very few cases in which we have had to bring in the Justice Department.

Senator BROOKE. We are going to be looking very closely at you, that you run a tight ship.

The future of the program, of course, depends upon how tight a ship you run. I'm sure you are well aware of that.

We certainly want to see that the money is used for the purpose for which it was authorized and appropriated, that it gets to the people who really need the money and not just political appointees or those who might benefit through nepotism.

Obviously, you can't personally, with your staff in Washington, see exactly what is happening in all areas of the program. But I hope that your mechanism is tight enough working through your regions and working through your compliance office that you can but decrease the problem substantially.

You didn't give me a percentage figure, but I hope it's a very small percentage figure of ineligibles. That when you do find them, that you act summarily to wipe it out.

For the record I would like to know what you are doing to improve your selection process to pinpoint those youth who need the program the most.

PLANNING FOR THE SUMMER PROGRAM

Mr. GREEN. I think one of the historic changes, and Bob alluded to it, that has plagued this program is that localities have never been able to plan for it. They have always received money just at the end of the school year.

Last year we had for the first time the planning process out before April. We plan to continue that so that then it's logical to do adequate recruitment during the latter part of the spring in April and May to identify the young people available and set up adequate stations for them to come in and file for the jobs.

In most cases, we have found in larger cities they have had to go to a lottery process when they had more eligible applicants than jobs. And we have strengthened the income check to allow the prime sponsors adequate time to determine that a young person is eligible by the income limits.

So that I think that this procedure, plus, as I indicated, our increased staffing on enforcement at the regional level, is allowing us to assist the prime sponsors in finding adequate people who qualify.

Senator BROOKE. But you are requiring a method by prime sponsors to insure that the proper ones get enrolled. They submit these methods to you for approval?

Mr. GREEN. The financial check has been the one, which has been the thorn, yes, sir. It's mainly a verification process in which a young person declares that his or her family income is at 70 percent of the BLS lower living standard.

We have, in some areas, I'm sure, gone to the checking of W-2's, but I think the idea is to allow the prime sponsors adequate time to plan for what their summer programs will be and never again be up against the wall.

Senator BROOKE. Do you have adequate time now?

Mr. GREEN. Last year we had program plans. We think if we meet that target again, that there will be adequate time to plan for the summer program.

Senator BROOKE. I think that date was April, wasn't it?

Mr. TAGGART. Yes, sir, we have a schedule for implementation.

Senator BROOKE. So that will be sufficient.

Mr. GREEN. We are proposing the same schedule as last year.

ADMINISTRATION OF THE SUMMER PROGRAM

Senator BROOKE. The routine administration of the summer youth program has experienced a lot of problems. I am told that time records have been wrong, individuals weren't paid correctly, enrollment forms are frequently not complete, contract proposals from subcontractors are frequently not carefully reviewed by prime sponsors.

Why are the administrative controls so lax in the summer youth program?

Mr. GREEN. Well, I would go back to my earlier statement that the preparation in the past has been too hurried.

Again, the localities have found out they are receiving money in June. The kids are coming out of school at the same time. There has been inadequate planning. And by our extended schedule, allowing prime sponsors to determine what the worksites are, to evaluate who the subgrantees are, to be able to determine what the enrollment procedures are seems to me to go a long way toward improving that and to improving the ability to control who the subgrantees are and their capability to maintain payroll timecards and supervision.

Senator BROOKE. We can look for definite improvement in the administration of the program because of the time?

Mr. GREEN. That as well as corrective action, yes, sir.

YOUTH SUPPLEMENTAL

Senator BROOKE. Last fall you requested an urgent supplemental of $500 million for youth job programs.

Now you are withdrawing that request. Since unemployment for this country for black youth is still nearly 40 percent, which is an unconscionable figure, why are these funds no longer requested?

Mr. GREEN. Two things, Senator. One was the unspent carryover funds of $380 million that I indicated in the statement. The second piece that I testified yesterday on is the additional $400 million we are requesting on our private sector initiatives to focus a majority of those slots on unemployed youth and disadvantaged youth.

We think that through the private sector program, plus the unspent carryover, we would have over the 1,500,000 level that we had indicated previously in services going to youth.

I would indicate that through the private sector initiatives we expect to be able to generate job opportunities in private jobs of long-term duration for young people who have been out of the work force for some period of time.

Senator BROOKE. You mentioned this carryover in your statement. What is the justification for not having spent that money?

Mr. GREEN. Well the Youth Demonstrations Projects Act was signed into law in August, which would put behind in the implementation schedule, I think it was the first part of August if I am correct.

Mr. PUGH. August 5.

Mr. GREEN. And in mounting the program, putting it together, getting the grantees, getting the approval of the grantees, working out the procedures, are the delays that created the carryover.

We have attempted, certainly, to reduce carryover. I might point out also that both paramount to this issue, as well as to the summer youth employment, that for the first time in employment training administration we have had a separate youth office.

And this is the first time we have been able to focus our primary program resources——

Senator BROOKE. You knew about this program in early spring.

Mr. GREEN. The act was not signed into law until August.

Senator BROOKE. Maybe the act wasn't signed, but you were well aware of what was coming. What was it, $390-odd million carryover?

Mr. GREEN. It was $380 million.

Mr. WALKER. Funds were appropriated earlier but the act was signed in August.

Senator BROOKE. You could have been working on those regulations during the summer. You didn't get them out until fall, did you? You knew about it in sufficient time to work on the regulations.

Mr. GREEN. At the time that we were in discussion on the bill, I began staffing up my organization, and consequently had brought on staff before the act had been signed into law.

I would say that we moved on it before the act was signed into law. But program dollars were not expended, at that point in time.

Bob?

Mr. TAGGART. I would respond that the regulations were published on September 19. They could not be finalized until the law was passed and the final intents of Congress were stipulated in the record.

And we moved as quickly as we could to publish clearances. We wanted to get broad-based participation and comment on the regulations.

At the early stage we tried to clear these as much as we could with community-based groups and various citizens groups.

We published the regulations very quickly for any major program of this scale and complexity.

The problem was not the time of the regulations but rather that there were a number of qualitative changes which Congress wanted in the legislation.

Special consideration for community-based organizations, greater consideration of the interest of labor unions, clearances with local education agencies.

In order to assure these processes in the regulations we had to allow them adequate time. In fact, many have commented that we shortened the period too much, that there was not enough time to get all the clearances in to get this broad base of participation.

So we tried to achieve a compromise between moving very quickly and securing the intents of Congress in these regards. We hope we achieved a balance.

PRIVATE SECTOR INITIATIVE

Senator BROOKE. I certainly favor private sector jobs. I think there is more permanency to them.

Certainly the training program is not deadened by any means and hopefully we will move in that direction, but I am not quite clear I understand just what your private sector job program is.

And whether you were giving me the answer that because of this there will be some reduction of that 40 percent black youth unemployment.

That was in response to that question where I asked you, why you withdrew the request for the $500 million. And as I pointed out to you there was still nearly 40-percent black youth unemployment.

You said putting money into the private sector job program, new initiative, is that going to have a serious impact on the youth unemployment rate?

Mr. GREEN. We think it is.

Senator BROOKE. How does it work?

Mr. GREEN. Private sector initiative as we are developing it now is to utilize the local prime sponsors to set up the industry council at the local level, that would involve both business and labor, to engage them in actively acquiring OJT slots, to involve industry in vestibule training, institutional training, and to be able to increase the participation that the CETA prime sponsors presently now have in private sector efforts.

With experience from our previous OJT activities, the Department in the past has certainly tried to increase the participation of private industry.

One of the criticisms that has been made is that through our national contracts we have not decentralized our program efforts to impact with those businesses, both medium size as well as large, that would like to play a role. We do have some experience. There was a Chicago Jobs program, and others in Cleveland, and Cincinnati in which private industry groups were actively involved in the marketing and obtaining of OJT contracts on a rather substantial basis for the prime sponsor in that particular area.

We agree with you that five out of every six jobs are in the private sector. And there is more we can do to increase that. We think as the overall unemployment rate comes down we can focus the system to increase placement in the private sector. We are moving in the right direction.

BLACK YOUTH UNEMPLOYMENT

Senator BROOKE. How long is that going to take you?

You may be moving in the right direction. Maybe the program will work. I hope it does. But how long is it going to take and are we going to continue to have a 40 percent black youth unemployment rate in this country for another year, another 2 years, another 3 years?

Employment is down now, 6.4 percent. But this rate continues to remain at a high, unconscionable, and unacceptable level.

Mr. GREEN. I agree with you, and I feel that what we are attempting to do in focusing the program most in need will help alleviate this problem.

I think the increased appropriations we have and the targeting to those people most in need will reduce the level of unemployment among youth, particularly black youth.

And there has been a historic differential. Even in the 1960's when we had 4 percent unemployment, black youth unemployment was four, five times the level of overall unemployment.

But I think that we do have the resources, and the program strategies that will go a long way to reduce that.

Senator BROOKE. I think that is the case, that certainly doesn't make it right, doesn't make it acceptable.

As I look at it, even if all goes for youth, I am advised only 40,000 more jobs would be created. And, you know, the private

sector still tends to ignore most disadvantaged. They don't take the most disadvantaged.

Mr. GREEN. For the $400 million we estimate 100,000 individuals to be eventually served by that program.

But you are precisely right. I think both our employment strategy and antidiscrimination activity move in the right direction of getting the private sector, and as expressed to us, they are interested, involved in playing a role in reducing high levels of youth unemployment. And this initiative is an attempt to involve them more in that effort.

IMPACT OF MINIMUM WAGE INCREASE

Senator BROOKE. Well, let's see. I am still very much concerned about this. I don't see how you can reduce that rate in the foreseeable future, in fiscal 1979, even with this program. I will look at it very closely.

Let me ask you about this. Even before you begin to spend most of the $1 billion already appropriated, you tell us you don't need a supplemental to offset the impact of the minimum wage increase.

How can you be so sure the 15 percent minimum wage increase won't cut back on the number of youths that could be served with $1 billion?

Mr. GREEN. We estimate that with the amount requested we will be able to serve one million young people at the minimum wage of $2.90 per hour and don't think that impact will be felt.

Senator, you are referring to all the youth programs, not the summer programs?

Senator BROOKE. Yes.

Mr. GREEN. We feel that that minimum wage activity can be absorbed.

Jim, do you have some budget figures?

Mr. WALKER. Not offhand I don't.

We are just getting started in the enrollments in the youth programs. I believe the minimum wage is accounted for.

Senator BROOKE. And you don't need a supplemental?

Mr. WALKER. For youth programs? I don't believe we do. We had requested one for title I.

Senator BROOKE. But we can do this without cutting back on the number of jobs?

Mr. SHINE. Yes, Mr. Chairman.

The supplemental would only increase the carryover funds into 1979.

Senator BROOKE. All right.

We will be hearing from you later on that, will we?

Mr. SHINE. Yes.

EFFORTS OF MR. TAGGART ON BEHALF OF YOUTH

Senator BROOKE. I have been handed a letter from a member of our committee. He wishes it placed in the record. I will read it. It's very complimentary.

Mr. TAGGART. Please do.

Senator BROOKE. The record will show that without Mr. Taggart's objection, the following letter is read:

DEAR MR. CHAIRMAN: It will be impossible for me to attend your subcommittee hearing today to hear Mr. William Taggart, Administrator of Youth Programs, testify. I would, however, like to emphasize how impressed I have been with Mr. Taggart's efforts to date in developing a comprehensive, cooperative interagency program for youth.

Specifically, he and others at the Department of Labor and LEAA are attempting to develop a model program in the State of Vermont whereby juvenile service work, job training and social service work can be combined into one coordinated approach.

It is hoped that this could be used as a model elsewhere in the country. It is an exciting effort and again, I would like to congratulate Mr. Taggart's pioneering effort.

Sincerely,

PATRICK J. LEAHY,
United States Senator.

At this point I also want to say that I'm pleased that Boston got that youth entitlement grant recently. I understand the grant will be around $22 million.

Mr. GREEN. Yes.

Senator BROOKE. How long will it last and is it in the fiscal year 1979 budget?

Mr. GREEN. It will last 18 months and the program will begin this month.

It will begin enrollment and will run through fiscal year 1979.

Senator BROOKE. How many people will benefit from that?

Mr. GREEN. In the entitlement area in Boston, approximately 8,000 people. That would be an increase of 8,000 new jobs for disadvantaged young people.

I might say of those entitlement cities, that there should be a substantial impact on youth employment for those particular areas.

Senator BROOKE. I certainly hope so. I'm going to watch that and see what that does.

Mr. TAGGART. I think the important point of the program is to test the concept of how many jobs we really need to guarantee employment for youth. That is really the fundamental issue.

Earlier questions with regard to summer youth programs may well be answered by this.

JOB CORPS DROPOUT RATE

Senator BROOKE. Now what are the main causes for youth dropping out of the Job Corps program and what really are you doing about this problem?

Mr. GREEN. Probably issues of adjustment, decisions on skills training, other items, family crises.

All of these would impact on dropouts.

We have reduced the dropout rate, the length of stay in the program increased from fiscal year 1975 at 4.8 months, to fiscal year 1977 at 5.9 months. And the average stay is nearing 6 months, whereas before, it was less than 5 months.

The weekly dropout rate average we had in 1975, of 4.4 enrollees each week, has been reduced down to 3.8. We think that this is the result of what we are doing in terms of quality of the program: One, we have moved all of the programs now to include both men and women; and two, that we have moved to increase the quality of training. Through a number of new efforts we have involved other agencies and organizations which guarantee employment to some of the young participants at certain centers.

The same thing on industries, GM, and some others.

We have worked out an agreement with the Defense Department to involve our Job Corps program in establishing a process in which young people who are interested in going into the armed services can prepare for the examination, and all the preparatory activity, because the Armed Forces is experiencing difficult times and disadvantaged young people are qualifying for the military services.

In addition to that we have developed a number of program activities in which we're working with postsecondary vocational schools and colleges. Those young people in Job Corps that are interested and of the ability to pursue higher education, while they are in the Job Corps program, are able to pursue that as it relates to a specific vocational area on a current basis.

We think that these kinds of program changes will reduce the dropout in Job Corps, increase the period of stay, and be able to give these young people a marketable skill that will translate into increased earnings for them throughout their life.

Senator BROOKE. Have you seen any results as yet?

Mr. GREEN. Yes, sir, we have.

Senator BROOKE. Has the dropout rate decreased?

Mr. GREEN. It has decreased and length of stay of the corps persons has increased.

Senator BROOKE. So you think it's a much better program qualitywise than it was previously?

Mr. GREEN. Yes, sir.

Senator BROOKE. Has it attracted more people?

Mr. GREEN. We find that we have no problem with filling the slots. For the first time, we have the Job Corps program, plus the Young Adult Conservation Corps, which is mainly a work situation.

But we have not experienced any difficulty and we have gone up or will go up, when the CETA reauthorization comes up, to increase the Job Corps allowances.

Those have not been increased for 10 years. But we have not encountered any serious difficulty in recruiting.

Senator BROOKE. How many women are in the Job Corps?

Mr. GREEN. I think roughly 33 percent of those are female; 31.6, Mr. Taggart tells me.

Senator BROOKE. That is an increase?

Mr. GREEN. That is a substantial increase. All the new camps will enroll approximately one-half female and one-half male.

One other piece. I think there was a restriction in the legislation that required the conservation camps to be only male. We are moving to have that changed in the legislation.

Senator BROOKE. Is that dispute over the Lakewood, N.J. site resolved?

Mr. GREEN. I will check with the—the Solicitor's Office was handling the discussions.

I think it is resolved—that, if I remember correctly, Bob, that site is being withdrawn.

Mr. TAGGART. That's right.

PROPER USE OF JOB CORPS FUNDS

Senator BROOKE. The Wall Street Journal of January 31:

Job Corps officials devise a new way to instill confidence in low income teenagers, expending $73,000 to have a school in Maine put on an inspirational drama at five Job Corps centers. The object, says the Labor Department, is to demonstrate to Job Corps members and staff that they could produce a similar drama.

Is that, in your opinion, a proper use of Job Corps funds?

Mr. GREEN. Well, I think that that particular program is an expansion of cultural arts. I think we would all agree that there are many sides to rounding out young people to prepare for the world of work.

We have, and I think I have had an opportunity to visit some of the Job Corps camps, certainly recreation and free time has been a problem in Job Corps sites in the past, and what young people do with it.

In some cases, where they are located, the availability of something other than problems—we have increased through a number of efforts that attempt to involve other cultural activities, art, craftwork.

Bob and some of the people are exploring possibilities with some of the universities that we are near in which they engage in drama and other activities.

I would say, Senator, that it seems to me that that would be a desirable activity for young people in Job Corps centers to be involved in, to produce, as they do in secondary schools, plays, musicals, dances, theater, movies, any number of activities that increase their awareness of who they are.

Senator BROOKE. Well, it's a question of priorities.

Is this really a priority, $73,000?

Mr. GREEN. Well, $73,000 at five sites is less than $15,000 a site.

Part of the question you asked earlier, I think, if you did an interview sample of the young people who dropped out, one of the problems that would plague them would be that there was inadequate——

Senator BROOKE. No cultural development.

Mr. GREEN. Cultural and recreational, during their free time. That has been a continuous problem.

Senator BROOKE. Did you approve of this or did this come before you?

Mr. GREEN. It's a procedure that I approved.

Mr. TAGGART. I think the other point to make is that we economists tend to concentrate on employment earning gains and the economic impacts only.

We found from the analysis of the Job Corps, those Harris analyses in the 1960's, noneconomic impact studies we have had very recently, there are a lot of other effects on youth that over the long run may have as much effect as the vocational skills they acquire.

These are attitudes and behavior, and the impacts are very great.

Senator BROOKE. I certainly understand that. I concur that cultural development is very, very important. It's a question here of priorities.

I presume when you made this decision you took this into consideration.

Mr. GREEN. Yes, sir.

QUESTIONS SUBMITTED BY SENATOR BROOKE

Senator BROOKE. I just have one final question, Mr. Green. I have many, but I will submit them to you for responses for the record.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

NEW YOUTH INITIATIVES

Question: The Youth Employment and Demonstration Projects Act of 1977 expands the number of programs for youth that are authorized under the Comprehensive Employment and Training Act of 1973. Many of these programs appear to have the potential essentially to duplicate existing efforts and to establish wasteful parallel administrative procedures.

Can a Young Adult Conservation Corps project operate alongside a Job Corps program?

Answer: The Young Adult Conservation Corps program regulations provide that enrollees should not share common facilities or work with Job Corpsmembers, except in emergency situations. This regulatory provision was adopted to avoid potential animosity among the enrollees in the two programs due to significant differences in pay rates.

Question: If so, how would they differ -- specifically, how will the pay rates of participants in the two programs differ?

Answer: It should be kept in mind that these are two distinctly different programs. The Young Adult Conservation Corps is basically an employment program while the Job Corps is a training program. The two programs are similar in that they both provide residential enrollment opportunities. Job Corps provides its enrollees with basic education, vocational training, medical and dental services, counseling, recreation, and other support services. The Young Adult Conservation Corps will be able to provide very few services of this type. All Young Adult Conservation Corps enrollees will be paid at least the Federal minimum wage. Job Corpsmembers do not receive pay but are given living allowances which ranges from $30 to $50 a month, depending on the length of time they stay in the program.

Question: Do you believe that the different youth-targeted programs operated under different titles of the Comprehensive Employment and Training Act are really different?

Answer: There are substantial programmatic and procedural differences between the new youth programs and other Comprehensive Employment and Training Act youth programs, which should result in significant performance differences. For instance, both the Youth Employment and Training Programs and the Youth Community Conservation and Improvement Project involves community-based organizations to a more substantial degree than title I programs. Local labor organizations and education agencies also have a more active role in these two programs. The Youth Incentive Entitlement Pilot Projects are unique experimental programs because of their scale in particular localities and the concept of a job guarantee rather than for qualitative differences, though these may also emerge.

The new youth programs also have greater flexibility for experimentation and place greater emphasis on quality of work experience and its linkage to education.

SUPPORTIVE SERVICES UNDER NEW YOUTH BILL

Question: What provisions are being made for job development and supportive services in the Young Adult Conservation Corps?

Answer: Although the Young Adult Conservation Corps program will not provide its enrollees directly with education, vocational training, medical services (other than emergency treatment), counseling, or recreational services, efforts are being made to see that existing opporunities are open to these youth. Insofar as it is possible, arrangements will be made for local linkages between the Young Adult Conservation Corps and educational systems, other training programs, and agencies providing job development and placement assistance services. Camp and project directors will notify appropriate employment service/job service offices of enrollees who are terminating from the program and seeking further training or job possibilities. In addition, the Young Adult Conservation Corps regulations allow camp and project directors to grant to enrollees paid administrative leave to participate in job search, interviews, and employment development activities.

Under the Youth Community Conservation and Improvement projects, primary emphasis is placed on work. Academic credit is to be arranged for competencies derived from work experience. Limited counseling, placement, and other services may be arranged, but other sources of supportive services and other types of programs are necessary for youth with serious remedial needs.

Question: To what extent do you think limited availability of supportive services will hamper the potential of these programs to have a long-term positive effect on youth?

Answer: It is impossible, at this stage, to speculate on how such limited supportive services will affect the long-term career prospects of participants. Experience can only provide the answer to that.

YOUNG ADULT CONSERVATION CORPS

Question: To what degree will the Young Adult Conservation Corps enroll economically disadvantaged and/or minority youth?

Answer: The interagency agreement with the Departments of Agriculture and Interior and the Young Adult Conservation Corps regulations require, to the extent feasible, an equitable selection of program participants from both sexes and from all economic and minority classifications.

Question: What have you done to get the Departments of Agriculture and Interior to focus on minority enrollments in those portions of the the Young Adult Conservation Corps which they administer?

Answer: The Department of Labor has directed the State employment security agencies, the primary recruiting agents for the program, to refer, to the extent feasible, equitable numbers of youth of all classifications for selection by camp and project directors of the Departments of Agriculture and Interior.

JOB CORPS PROGRAM VERSUS NEW YOUTH BILL

Question: With the passage of the Youth Employment and Demonstration Projects Act and the expansion of the Job Corps program, will Job Corps have problems obtaining qualified corpsmembers?

Answer: There is no shortage of youth who are eligible for and could benefit from the Job Corps. At any point in time, there are between 300,000 and 400,000 unemployed, poor dropouts, perhaps half of whom could benefit from Job Corps enrollment. Furthermore, if the Job Corps living and readjustment allowances are raised, as is being proposed in the new Comprehensive Employment and Training Act legislation, and recruiting efforts mounted in a timely and effective fashion, the Job Corps will have no problems in obtaining qualified corpsmembers.

Question: How will the wages paid to participants under the new youth bill affect participation in Job Corps in view of Job Corps' initial living allowance of $30 per month?

Answer: Job Corps, insofar as living allowances are concerned, will be at a relative disadvantage in attracting youth to its program. The current legislation provides an initial living allowance of $30 per month, while participants under the new youth bill will receive the minimum wage, now $2.65 per hour. The Department is proposing legislation that will increase the Job Corps allowance. There are, however, attractive features in the Job Corps program not available to participants under the new youth programs, such as the payment of readjustment allowances and a residential program providing meals, medical and dental health care, professional counseling, recreation, vocational training, and basic education.

SELECTION AND REFERRAL TO JOB CORPS

Question: Could you briefly describe what criteria is provided to a screener to enable him to determine that a youth's educational and vocational needs can best be met through Job Corps rather than an alternative program in the youth's home community?

Answer: Criteria for screeners to determine a youth's eligibility for enrollment in Job Corps is provided in Federal regulations (29 CFR 97a30) and the Screening and Admissions Guide for Job Corps. To qualify for the Job Corps residential training program, the applicant should be currently living in an environment so disruptive that his prospects for successful participation in a nonresidential program are substantially impaired. The screener in the interviewing process determines whether the potential applicant's educational, vocational and other placement related needs can best be met through a Job Corps residential or nonresidential program or through an alternative program in the youth's home community.

Question: Do you provide your Job Corps Screeners with information on other programs a youth might possibly attend?

Answer: The State Employment Security Agencies do the majority of the screening for Job Corps. The counselors and interviewers in these agencies are aware of other employment and training programs

which are available to applicants. Based on their discussions with applicants, they ascertain the specific needs of the individual and proceed to refer them to the program which best suits their needs, depending on the availability of slots. Private screeners are instructed to refer youths to the State agencies if they determine these youths do not meet the Job Corps criteria and therefore do not qualify for the program.

Question: How do you monitor the adequacy of Job Corps screening or, in other words, how do you assure yourself that only those needing a residential program are being accepted as residents?

Answer: Procedures have been established whereby trained screeners make the assessment of which program is tailored to the youth's needs and from which the individual can benefit the most. The regional office and the Job Corps screening agency share responsibility for deciding whether a youth is eligible for the program. The screener submits the youth's application with the necessary verifications in accordance with established guidelines. The regional office makes the final determination and review to ensure equitable treatment for all applicants.

Procedures have also been established whereby the Job Corps Center Directors report substantive screening errors to the regional offices for corrective action to be taken with the appropriate screening agency. Corpsmembers who have given false or misleading information at the screening level or who are found to be not suitable and cannot benefit from the program are terminated.

Question: Would you have any data on the number of youths referred by Job Corps screeners to programs other than Job Corps?

Answer: The majority of the screening and referral for Job Corps is done by the State Employment Security Agencies. These agencies referred almost 800,000 youth in Fiscal Year 1977 to various programs.

Question: What evidence is there that many disadvantaged youths not requiring a residential educational and vocational training program have been improperly admitted to the Job Corps?

Answer: It is quite possible that some disadvantaged youth who do not need a residential program are being served by Job Corps. Training experts generally acknowledge that disadvantaged youth require a higher level of supportive services than the nondisadvantaged. Job Corps youth are typically the most disadvantaged being served by employment and training programs. Although it is possible that some corpsmembers would have been served equally well in programs providing fewer supportive services, every attempt is made to reach only those who would benefit most from residency and the intensive support services that Job Corps provides.

The Youth Employment and Demonstration Projects Act of 1977 significantly expands the Department's mandate to deal with the problems of unemployed youth. An office of Youth Programs has been established to meet this challenge, and a comprehensive strategy to coordinate all youth employment efforts, including the new youth initiatives, the summer youth program and Job Corps is being devised. One part

of this effort is our plan to encourage the development of a recruitment and referral system which will ensure that young people in need of services are enrolled in the program which most effectively meets their needs. This system will require close coordination among a variety of service deliverers, including Comprehensive Employment and Training Act prime sponsors, State employment security agencies, private screeners, and labor unions. This should minimize the number of inappropriate referrals which may have been made in the past.

JOB CORPS DROP-OUT RATE

Question: What do you see as the primary cause of the Job Corps drop-out problem and what actions could be taken to bring it down to an acceptable minimum level?

Answer: The Job Corps deals with an adolescent population which may be characterized by previous failures in public schools, spasmodic employment, lack of educational achievement, and poor self-concept. In addition many Corpsmen are unable to adjust to the center's environment, and experience homesickness. Many adolescents are away from home for the first time. Another factor which may be a cause for dropping out from the program is that Job Corps is a voluntary program. As such, Center personnel cannot require enrollees to remain in center against their wishes or their parents' wishes.

It is significant to note that Job Corps has taken programmatic and administrative actions which have resulted in reduction of the weekly termination rate from 4.4 percent in FY 1975 to 3.8 percent in FY 1977, and an increase in the average length of stay from 4.8 months to 5.9 months in the same period.

The Job Corps continues to seek programmatic improvements which include but are not limited to more intensive counseling by professional and paraprofessional counselors on a one-to-one basis; innovative programs which make for enhanced and enriched curricula offerings; and, capital improvements which make for more attractive center amenities and are more conducive to a home-like atmosphere.

Question: The high drop-out rate makes it easier to meet the legislative ceiling of $6,900 a year for direct operating costs per enrollee. What would be the impact if Congress were to change the requirement to $6,900 per enrollee year?

Answer: Since the cost limitation was inserted into the legislation, the Job Corps has been administered on the basis that it applied to an enrollee year of training. Considerable administrative effort has been directed toward keeping the cost down while maintaining an effective program. However, this limitation was established in 1968. Because of the effects of inflation, an optimum program can no longer be accomplished within a cost limitation of $6,900 per enrollee year. The proposed CETA reauthorization amendments include deletion of the $6,900 cost per enrollee limitation.

JOB CORPS PLACEMENT

Question: Is the Job Corps placement rate based on the total number of individuals served by the program in any given year?

Answer: No. One third of those served in any given year are still enrolled at the start of the next fiscal year. The Job Corps placement rate is based on the total number of placement records received during a given year, less the number reported to be unavailable for placement.

Question: If a former corpsmember obtains a job more than six months after leaving the program, is this a Job Corps placement?

Answer: Job Corps placement efforts end when regional office placement personnel decide that a suitable job placement has been accomplished, all reasonable efforts at placement have been made by the Job Corps or other participating agencies, or corpsmembers refuse to cooperate with placement efforts in their behalf. Normally, placement agencies are given ninety days to place and submit documentation of a placement. However, an additional ninety days is granted when, for reasons beyond the control of the corpsmember, a placement did not take place.

Question: Does Job Corps pay placement agencies for placement assistance to an individual or for providing information on an individual?

Answer: Job Corps pays placement agencies for placement assistance, efforts to locate corpsmembers, and for the submission of placement information.

Question: If a youth is placed in an unskilled job, is this considered a placement for Job Corps reporting purposes?

Answer: Yes, Corpsmembers who do not, for whatever reason, acquire skilled jobs are still provided placement assistance which is recorded as a placement when the assistance leads to a job.

Question: If a youth stays in Job Corps for a very short period of time and subsequently finds a job, would Job Corps claim the individual as a placement?

Answer: Yes, placement assistance is provided to all former enrollees, regardless of length of stay in the program.

Question: What is the current placement rate for Job Corps enrollees, including categories of: percent getting permanent, unsubsidized employment; percent going back to school; and percent going into the military.

Answer: Fiscal Year 1977 placement rate:

Unsubsidized Employment	61.4%
Other Employment	2.2%
School	22.8%
Military	6.2%
Total Placed	92.6%
Total Unplaced	7.4%
Total	100.0%

NEW JOB CORPS CENTERS

Question: How many new Job Corps Centers have been opened with the funds provided last year to double the enrollment level?

Answer: One Job Corps center has actually opened in Crystal Springs, Mississippi, with an enrollment capacity of 250. However, the Department has Governors' approvals of 19 new centers and has let contracts for operation of 5 additional new centers. There is a significant lead time of 9 to 12 months before enrollees can come on board at new centers.

JOB CORPS CURRENT ENROLLMENT

Question: What is the current enrollment level, and when do you expect to fill the authorized 44,000 slots?

Answer: The enrollment level for Job Corps as of February 1, 1978, was more than 23,000. We expect to fill the authorized 44,000 slots by March 31, 1979.

JOB CORPS COST

Question: What is the total budgeted cost for a Job Corps enrollee in each of Fiscal Years 1978 and 1979?

Answer: The total budgeted cost per enrollee is $6,163 in Fiscal Year 1978 and $4,136 in Fiscal Year 1979.

Question: How much of this cost is for initial capital improvements to set up new Job Corps centers?

Answer: The estimated funding requirement for new center capital in Fiscal Year 1978 for 21,300 slots is $128,394,000 or $6,028 per slot including capital equipment. If the $128,394,000 new center capital requirement is prorated to the total Job Corps and the estimated 64,000 enrollees to be served, it is equivalent to $2,006 per enrollee. There are no funds programmed for initial new center capital in Fiscal Year 1979. As indicated above, this will be funded in Fiscal Year 1978.

NEW JOB CORPS CENTERS

Question: Provide for the record a list by State of existing Job Corps centers, as well as planned new ones and estimated opening dates, including funding amounts, for each of Fiscal Years 1978 and 1979.

Answer:

EXISTING JOB CORPS CENTERS

STATE	JOB CORPS CENTER
ARIZONA	PHOENIX
ARKANSAS	CASS
	OUACHITA

EXISTING JOB CORPS CENTERS (CONTINUED)

STATE	JOB CORPS CENTER
CALIFORNIA	LOS ANGELES
	SAN JOSE
	SANTA ROSA
COLORADO	COLLBRAN
GEORGIA	ATLANTA
HAWAII	HAWAII
IDAHO	MARSING
ILLINOIS	GOLCONDA
INDIANA	ATTERBURY
KENTUCKY	BRECKINRIDGE
	GREAT ONYX
	PINE KNOT
	WHITNEY M. YOUNG, JR.
MARYLAND	MARYLAND
MICHIGAN	DETROIT
MINNESOTA	MINNEAPOLIS
MISSISSIPPI	MISSISSIPPI
MISSOURI	EXCELSIOR SPRINGS
	MINGO
MONTANA	ANACONDA
	KICKING HORSE
	TRAPPER CREEK
NEBRASKA	PINE RIDGE
NEW JERSEY	NEW JERSEY
NEW MEXICO	ALBUQUERQUE
NEW YORK	GLENMONT
NORTH CAROLINA	LYNDON B. JOHNSON
	OCONALUFTEE
	SCHENCK
OHIO	CINCINNATI
	CLEVELAND
OKLAHOMA	GUTHRIE
	TREASURE LAKE
	TULSA

EXISTING JOB CORPS CENTERS (CONTINUED)

STATE	JOB CORPS CENTER
OREGON	ANGELL
	PORTLAND
	TIMBER LAKE
	TONGUE POINT
	WOLF CREEK
PENNSYLVANIA	KEYSTONE
	PITTSBURGH
PUERTO RICO	ARECIBO
	RIO GRANDE
SOUTH DAKOTA	BOXELDER
TENNESSEE	JACOBS CREEK
TEXAS	EL PASO
	GARY
	MCKINNEY
UTAH	CLEARFIELD
	WEBER BASIN
VIRGINIA	BLUE RIDGE
	FLATWOODS
WASHINGTON	COLUMBIA BASIN
	CURLEW
	FORT SIMCOE
WEST VIRGINIA	CHARLESTON
	HARPERS FERRY
WISCONSIN	BLACKWELL

Proposed New Job Corps Centers

State	Center	Estimated Opening Date	Estimated FY 1978	Funding Amount FY 1979
Arizona	Tucson	11/78	$1,741,000	$1,875,000
California	Imperial Beach	11/78	4,183,000	3,752,000
	Sacramento	8/78	3,199,000	2,701,000
	San Bernadino	11/78	1,289,000	2,063,000
District of Columbia	Potomac	4/78	5,736,000	3,939,000
Florida	Pine Island	2/79	1,709,000	1,875,000
	Jacksonville	9/78	2,232,000	1,875,000
Georgia	Albany	3/78	4,981,000	9,004,000
Illinois	Joliet	8/78	3,917,000	3,001,000
Iowa	Centerville	11/78	2,370,000	2,101,000
Kentucky	Frenchburg	1/79	1,670,000	1,875,000
Louisiana	Baton Rouge	8/78	5,480,000	4,502,000
	Shreveport	8/78	2,784,000	2,063,000
Maryland	Bainbridge	7/78	2,500,000	3,376,000
	Chesapeake	9/78	6,160,000	5,253,000
	Laurel	6/78	3,250,000	2,251,000
Massachusetts	Chicopee	7/78	4,846,000	3,752,000
Michigan	Mt. Mercy	9/78	2,539,000	2,251,000
	Owosso	9/78	2,539,000	2,251,000
Minnesota	St. Paul	9/78	2,807,000	3,001,000
Mississippi	Gulfport	9/78	2,678,000	2,101,000
Nebraska	Omaha	10/78	2,539,000	2,251,000
Nevada	Reno	8/78	3,523,000	3,002,000
New Mexico	Roswell	8/78	1,850,000	1,500,000
New York	Bennett	10/78	3,347,000	3,001,000
	Calicoon	8/78	2,476,000	2,814,000
	Casadega	4/78	2,404,000	2,063,000
	Gateway	6/78	2,465,000	1,875,000
	Homer Folks	6/78	3,870,000	3,001,000
	Iroquois	3/78	2,920,000	1,875,000

State	Center	Estimated Opening Date	Estimated FY 1978	Funding Amount FY 1979
North Carolina	Ashville	9/78	10,570,000	9,004,000
	Kitrell	9/78	2,116,000	1,875,000
Ohio	Dayton	6/78	1,750,000	2,251,000
Pennsylvania	Red Rock	4/78	2,316,000	2,385,000
South Carolina	Bamberg	9/78	2,410,000	2,025,000
Vermont	Vergennes	8/78	2,784,000	2,063,000
Virginia	Lynchburg	8/78	3,083,000	2,626,000
West Virginia	Anthony	11/78	1,993,000	1,501,000
	Fairmont	11/78	2,928,000	2,439,000

YOUTH INCENTIVE ENTITLEMENT PILOT PROJECTS

Question: How many Youth Incentive Entitlement Pilot Projects, designed to guarantee a job for economically disadvantaged students, will be funded in Fiscal Year 1979?

Answer: About 15 to 20 projects are expected to be funded in Fiscal Year 1979. These include potential refundings and extensions of projects initiated in Fiscal Year 1978.

YOUTH GRANTS TO OTHER FEDERAL AGENCIES

Question: Please provide a project-by-project list of Youth grants you have made to other Federal agencies, with subtotal amounts for each agency.

Answer:

Federal Agency	Project Title	Amount
ACTION	Youth Community Service Demonstration Project	$8 million
Department of Health, Education, and Welfare	Career Intern Program Demonstration Project	$5 million
Department of Housing and Urban Development	Community Conservation and Improvement Demonstration Project	$8 million
National Occupational Information Coordinating Committee	National Occupational Information Coordinating Committee	$3 million

1/ The National Occupational Information Coordinating Committee (NOICC) is an interagency committee established by the Vocational Education Act.

PLAN TO IMPROVE SUMMER PROGRAM WEAKNESSES

Question: Because of the recognized inadequacy of some prime sponsors' application forms, why doesn't the Labor Department mandate a required application form rather than leaving the form up to local option?

Answer: The Department requires that summer program applicants submit Standard Form 424, Application for Federal Assistance. Thus, all plans follow a uniform format that has been developed using clearance processes with the Office of Management and Budget, interested Congressional staff, public interest groups, and other members of the public.

Question: Why doesn't Labor require prime sponsors to obtain a signed income statement which contains necessary information to determine eligibility rather than merely advising prime sponsors that it would be appropriate?

Answer: Parents are currently required to certify the amount of the family income. Counselors are then required to certify eligibility based on the certified income data.

MONITORING THE SUMMER PROGRAM

Question: How many full-time professional staff will Labor devote to monitoring the 1978 Summer Youth Program?

Answer: The Department of Labor has 67 full-time staff in 10 regional offices who are responsible for monitoring all prime sponsor activity. This equates to 1 to 2 prime sponsors per individual on an on-going basis. As a part of their responsibilities, these Federal Representatives specifically monitor all summer programs. Some regional offices have also sent teams to each prime sponsor to assure that program operations are appropriate and reflect plans.

Question: How many times have you refused to fund a prime sponsor because of its poor performance in past summer youth programs?

Answer: While we have not refused to fund a prime sponsor for poor performance, conditional funding has been used when applications or program performance is substandard. Moreover, whenever funds have been improperly used, prime sponsors have been required to pay back those funds to the Federal government. In addition, funds made available to prime sponsors for the summer of 1977 were determined after subtracting funds carried in from previous years. In that way, new funds could be concentrated on those prime sponsors that had been able to use their summer funds most effectively. Our current plans are to follow that same procedure for summer 1978.

Question: Does Labor maintain records that compare the final results of a summer youth program to the performance promised by the prime sponsor and that breaks out discrepancies between promised and actual performance?

Answer: Yes. The prime sponsors' plans and the reports required from prime sponsors by the Federal government are designed expressly for that purpose. In submitting the summer plan, prime sponsors

outline enrollment levels and expenditures. The final report reflects the actual data, and is used as a monitoring tool to measure performance.

Question: What is Labor doing to make sure that prime sponsor's monitoring and evaluation personnel are adequately trained?

Answer: The summer program is monitored in one of three ways - by regional staff, by prime sponsor staff, and most often jointly. Generally, experienced prime sponsor personnel are available to perform this function, since they are also involved in monitoring other programs. In some cases, planning councils also monitor. Where prime sponsors are new or are unskilled, training is usually provided by experienced regional Department staff on-site.

PROGRAM GOALS OF SUMMER PROGRAM

Question: Have specific and realistic program goals been established to control the dropout rate believed to be due to jobs emphasizing work experience and good work habits, rather than developing particular job skills?

Answer: The Department has been making increasing efforts to improve the quality of the summer program. The Department feels that many youth are in fact able to continue in school because of the income they receive from their summer experience. However, school retention is better achieved if young people can be placed in meaningful jobs where their educational skills can be applied and in which they can be motivated. Retention is enhanced where the job can be related to the school curriculum and where young people can be exposed to labor market information and a variety of job settings. For that reason, the Department is strongly emphasizing that all summer participants be given labor market information. Guidelines on a vocational exploration program have been recently provided to prime sponsors to cover the summer and other youth programs. Skill development is encouraged wherever possible; however, it must be kept in mind that unlike other youth programs, the summer program lasts approximately 9 weeks and skill development will therefore be somewhat limited.

Question: If such program goals have been established has the dropout rate decreased due to this program?

Answer: As indicated above, the summer program has limited objectives. There is currently no specific data collected on dropout rates. However, data for the 1977 summer program shows a 99.5% positive termination rate, with 0.1% of that total related to job placement. The remaining 99.4% shows terminations of participants going into military service, other employment and training programs, and return to school. The inference from the data is that the summer program has proven very effective in decreasing dropout rates.

SOCIAL BENEFITS OF SUMMER PROGRAM

Question: Has the Department established a system to report the social benefits of the summer youth employment program? Have

criteria been established so as to determine at what level of accomplishment a program is considered successful?

Answer: The Department, through its Continuous Longitudinal Manpower Survey (CLMS), is collecting and analyzing data on a national sample of participants in all CETA programs, including the Title III summer youth program. The primary long range goal of the survey is to provide measures of the impact of the program on participants. Impact will be determined through assessment of the nature and extent of differences between pre-program and post-program periods for participants. These differences will be compared with similar changes in earnings for a comparable group of non-participants in order to estimate changes due to program participation. The CLMS also will permit determination of relationships between post-program activities and services received on activities conducted for participants to help measure relative effectiveness of various manpower development strategies including summer work programs.

In addition to this on-going evaluation, the Department is planning to fund in the near future a study which would measure the value to society of the output produced by youth employment, including that provided under the summer program, and would assess the feasibility and relative desirability of various strategies for valuing the output of youth projects.

Question: The GAO report also noted that you were doing a survey to determine program impact on participants in the area of post-program employment and earnings. Do you have the results of this survey?

Answer: The survey to determine program impact is the Continuous Longitudinal Manpower Survey (CLMS). It is tracking a national sample of enrollees in the decentralized CETA programs (Titles I, II, VI, and summer youth of Title III). Post-program results are not yet available. Data on the findings of follow-up, about 18 months after enrollment, of January-June 1975 enrollees in adult programs, should be ready by the end of March or early April 1978. This survey does not emphasize summer youth program enrollees; there is only a small sample of such enrollees, which enables general determination of basic characteristics of such enrollees. These characteristics data have been published for summer enrollees in summer 1975, in CLMS report number 4. Such information on summer 1976 enrollees should be issued in April or May 1978.

EFFECTIVENESS OF SUMMER PROGRAM

Question: Have you been monitoring local sponsors to analyze program effectiveness in meeting program objectives?

Answer: Monitoring visits are undertaken each summer to determine the quality of activities and services being made available and to assure that funds are being properly utilized.

Question: Have you developed reasonable safeguards against payroll irregularities or other forms of unauthorized expenditures?

Answer: Prime sponsors are required to describe their payroll system. The Department also requires that prime sponsors keep documentation on file to support all payroll costs.

Question: Have you been able to ascertain the cost-effectiveness of this program?

Answer: Level of participation is the singular program-wide factor used to judge the program. Plans for the coming year include a more intensive monitoring approach and on-site visits to determine, among other things, the quality of work site content and supervision. The results of this effort will hopefully lead to some reasonable cost effective measures that may be used as a basis for future program decisions.

Question: Have racial goals been established for the prime sponsors?

Answer: Quotas, goals, ratios, etc., have not been established. However, each prime sponsor is expected to serve members of the eligible population in accordance with their relative distribution in the population.

SUMMER YOUTH EMPLOYMENT PROGRAM
(Washington Metropolitan Area Program)

Question: Have remedial education needs of the summer youth employment enrollees been identified?

Answer: In the summer plan program narrative, the prime sponsor is required to identify the remedial education needs of youth and the programs designed to meet those needs.

Question: If so, are those in need given the opportunity to receive it?

Answer: The purpose of including remedial education in the prime sponsors' summer plan was to assure that those summer participants who could benefit most would have it available.

Question: Have you increased your efforts to ensure that all work stations are designed to provide reasonable amounts of meaningful work and adequate supervision for the enrollees?

Answer: The regulations and grant application instructions have been revised to provide information concerning selection of work-sites, worksite agreements, and provisions for adequate supervision.

Question: Has the eligibility criteria been improved so selection of eligible youth and/or potential dropouts can be better identified?

Answer: The eligibility criteria is consistent with the mandate of the law. The referral and selection process of eligible youth must be identified by the prime sponsor in their summer plan. This

year, due to coordination with the programs funded under the Youth Employment and Demonstration Projects Act, dropouts will be better identified.

Question: Have you increased your efforts to ensure that youths enrolled in future summer programs meet income eligibility requirements?

Answer: The method of determining eligibility must be described by the prime sponsors in their summer plans. Accomplishments will be monitored once a month during the duration of the program.

Question: Are adequate records kept on the incomes of enrollees' families?

Answer: Prime sponsors are required to complete applications on summer enrollees. These applications include income information certified by the parents, and are the basis for certifying income eligibility for this program. Prime sponsors are required to keep applications on file for three years after participation.

REDUCED REQUEST FOR SUMMER YOUTH FUNDING

Question: What is the rationale for requesting only a million summer youth jobs for 1979, when Congress has already approved 1,165,000 jobs for the summer of 1978?

Answer: Fiscal Year 1978 is the first year in which the new youth programs will be in operation. When the levels of service for these programs and those for youth in the regular CETA programs (which must be maintained) are considered, substantial resources are being directed to youth for comprehensive career development and training as well as for employment. In addition, the Department anticipates an improvement in economic conditions for next summer. For these reasons the level of 1,000,000 jobs for summer is considered appropriate.

SUMMER YOUTH PROGRAM

Senator BROOKE. Coming back to this minimum wage, how much would be needed to cover the maximum wage increase for enrollment of 1,165,000 in the summer youth program?

Mr. WALKER. Approximately $100 million.

Senator BROOKE. About $100 million.

Mr. WALKER. Yes.

Senator BROOKE. All right. Thank you. I appreciate the testimony, Mr. Green and members of the staff.

[CLERK'S NOTE.—The justification material for these accounts appear in the House fiscal year 1979 Labor-HEW Appropriations Subcommittee hearing record.]

SUBCOMMITTEE RECESS

The subcommittee will recess until 2 p.m., when we will meet in room 1223 of the Dirksen Building to continue Labor Department appropriations hearings.

[Whereupon, at 11:07 a.m., Tuesday, January 31, the subcommittee was recessed, to reconvene at 2 p.m. the same day.]

(AFTERNOON SESSION 2:45 P.M., TUESDAY, JANUARY 31, 1978)

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

STATEMENT OF ERNEST G. GREEN, ASSISTANT SECRETARY FOR EMPLOYMENT AND TRAINING

ACCOMPANIED BY:

ROLAND R. MORA, DEPUTY ASSISTANT SECRETARY FOR VETERANS' EMPLOYMENT
WILLIAM B. HEWITT, ADMINISTRATOR, OFFICE OF POLICY, EVALUATION AND RESEARCH
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WILLIAM B. LEWIS, ADMINISTRATOR, U.S. EMPLOYMENT SERVICE
LAWRENCE E. WEATHERFORD, JR., ADMINISTRATOR, UNEMPLOYMENT INSURANCE SERVICE
HUGH C. MURPHY, ADMINISTRATOR, BUREAU OF APPRENTICESHIP AND TRAINING
T. JAMES WALKER, ACTING ADMINISTRATOR, OFFICE OF ADMINISTRATION AND MANAGEMENT
JOHN F. SHINE, BUDGET OFFICER, OFFICE OF ADMINISTRATION AND MANAGEMENT
WILLIAM P. REISE, COMPTROLLER FOR THE DEPARTMENT
CHARLES E. PUGH, DIRECTOR, OFFICE OF BUDGET

INTRODUCTION

Senator EAGLETON. The subcommittee will come to order. I want to ask a sort of philosophical question.

I have here three sheets listing employment and training programs that our staff prepared. One we used yesterday, for instance. The subject matter was Employment and Training Administration. And we went through six job programs, job type programs, title I manpower revenue sharing, public service employment.

Next line—skill training improvement program. Welfare reform demonstration.

Next line—private sector initiatives. Those were the $200 million and $400 million.

Then a line for program administration. Then this morning, did Senator Brooke do these? Senator Brooke, Mr. Green, all the folks here? OK.

There are six lines on that. Youth Adult Conservation Corps, youth community conservation and improvement projects, youth employment training programs, youth incentive entitlement pilot projects, Summer Youth, and Job Corps.

Six on that sheet.

Now for the afternoon agenda, we have another sheet entitled, "Employment and Training Administration."

Here's the line items that appear on this one sheet: "Indians"; "migrants", "migrants and Indians"; "HIRE (help through industry retraining and employment)."

I don't know what all these catchy words—"disabled veterans outreach program"; "program support"; "other national programs."

I don't know how many come under that, "other national programs": "older Americans"; "grants to States"; "unemployment insurance service"; "contingency fund"; "Federal unemployment benefits."

CONSOLIDATING JOBS PROGRAMS

Then, I dare say, if we rummaged around over in the Commerce Department and in the Agriculture Department, and probably over in HEW, we could find several programs there that had a very significant, if not a total job focus, either job creation, job subsidization type program.

Now having said all of that, I have a purpose in my mind.

Wouldn't it be feasible that we would do four things better than so many things so poorly? That is, do we really need everything on these three sheets? And I say these could be compounded by other job type programs in other departments.

This bothers me, not only because the Labor Department—I face the same thing—we are going to have the Older American Act here.

I don't want to bury you with all these sheets there. I have a fistful of sheets of older American programs, nutrition for the elderly, RSVP, transportation for the elderly, meals in congregate settings for the elderly.

I have a fistful of separate programs there that range in funding from billions like medicare, down to $5 million nationwide. One of these generous programs where we run a whole separate program for $5 million nationwide. I think we could do the same in education and other areas.

Now I'm not for consolidating things just for the sake of saying I consolidated something. But when you have got this many programs to administer, couldn't you do a better job administering four?

Mr. GREEN. May I respond, sir?

Senator EAGLETON. Yes, sir.

Mr. GREEN. Well, I suppose in the larger question, certainly, but most of these, all of these program breaks represent a piece of legislation——

Senator EAGLETON. Yes.

Mr. GREEN [continuing]. That they respond to.

Senator EAGLETON. Sure. I voted for most of them, I bet. I'll bet you I voted, I'm sure I voted, along with everybody, for migrants and I probably voted on the Indian program. And I'm certain I voted on disabled veteran program. And I'll bet you I voted for many of these.

So I'm not trying to throw it all on you, but do you have any recommendations to throw back to us, the people who set them all up as separate programs?

DIFFICULTIES IN CONSOLIDATING PROGRAMS

Mr. GREEN. We have made some moves to consolidate some activities, and I think it's difficult, in general, because of the direction that the legislation outlines.

Second, some institutions exist, take the employment services, for 40 years. The CETA activity is only some 4 years old. The migrant and farm worker programs and the native American programs are a portion of CETA, but they are a separate set aside.

The older American program is a separate piece.

So that in moving toward—or bringing them all at one place, you do have the problem of who it is that's going to put out the programs and deliver them.

We have local groups, community-based groups. We have units of Government. All of these impact on this issue.

And even though it seems a great range, one of the issues on the CETA reauthorization is trying something like the youth program, to bring together all these various youth pieces under one.

It's a process that we are trying to work on also.

Senator EAGLETON. Look, Mr. Green, I am not blaming you. You inherited nearly every one of these programs, I dare say; maybe 95 percent of them were in place prior to you coming on board, prior to President Carter's inauguration, so it is not a question of trying to blame you or this administration for something.

I would have one hell of a time doing your job and saying to myself, "I am really supervising in the kind of knowledgeable way that I would like to do it, these programs on these three sheets."

In a sense, say that overseeing this many programs, I do not know how anybody could do it. There just are so many little bits and pieces around there, and some of them are not so little, I dare say, some of them are billions of dollars, that I would find it enormously difficult to administer them.

I remember the first time I think I ever saw John Gardner on television back when President Johnson was in office.

He had just been appointed Secretary of HEW and this was the first Sunday after his appointment. So he was on one of the "Meet the Press" or "Face the Nation" programs.

John Gardner is undoubtedly one of the brightest men in the United States. About halfway into the program somebody, one of the reporters, asked Mr. Gardner an important but rather detailed question on social security.

And Gardner, a very bright man, said with refreshing candor he said:

> Sir, I don't have the slightest idea what you are talking about.
> I have had little or no connection with Social Security. I know it is one of the responsibilities of the Secretary of Health, Education, and Welfare; and I am just going to have to say to you frankly, I just don't know the answer to your question.

And it dawned on me, I said:

> A, that is refreshing and, B, if a man like John Gardner, bright as he was, would be such a novice on social security, how could anybody run the Department of Health, Education, and Welfare?

I heard Secretary Califano one night a few months ago at Senator Pell's house, Senator Pell is chairman of the Education Sub-

committee. I think Califano told us at that time that there were in existence 82 categorical programs for education alone.

I think that is the figure: 82, just education. And he—of course I was agreeing with him and he was agreeing with me.

He said:

> I do not know, I really cannot run any 82 programs. I have got an assistant secretary for education. She probably cannot either. But you gave us those programs.

A lot of those, you know, we wrote to get around President Nixon and to get around the Nixon cabinet. We probably did that in the Labor Department. We were so fearful of what they would do that we just decided we would write a program very tightly and they would have to do it. There was no way they could submerge it or throw it in with something else because we challenged their motivation, especially in some of these domestic area programs.

And I know President Carter, if there is one theme he hit more than any other theme in the campaign, it was Government efficiency, Government—Government being so ponderous, Government being so unresponsive. And I certainly hope as these reorganization plans come up, not that the plans will treat all these programs, but I hope that part of that appraisal is, how can anybody really administer this many programs?

Obviously, that is sort of an obsession of mine, so we will move on.

Let me follow up with this one question.

CATEGORIAL PROGRAMS

I took the blame for most of these we set up and created, but last year you created major new categorical programs such as the following. These you did, we didn't.

Did we force them to do this, or did they do it on their own? Skill training improvement program "STIP"; help through industry retraining and employment "HIRE". Such activities as were authorized to be carried out by local project sponsors under title I of the comprehensive CETA Act.

Now you are abolishing these programs, but then you are again creating other major national programs such as "private sector initiatives."

What about that?

Mr. GREEN. Well in both examples the STIP program, skills training improvement program, the one that allows upgrading activity, we are incorporating that as a desirable activity in Title I of CETA.

On the private sector initiatives as outlined yesterday before you, that is a process that we are not running as a separate item, but integrating it into the prime sponsor program activity.

On the activity for veterans, an item that the administration gave high priority was high unemployment of Vietnam era veterans. The administration thought the best way to treat that was to give it a separate identity and proceed in that manner to focus on it.

Senator EAGLETON. Yes; I sympathize with you. I am sure I said it or some other Senator, Magnuson maybe, said it; or others at

hearings and we decried the statistics that then pertained, and I dare say, probably still do—the high incidence of unemployment by Vietnam veterans.

What about if we—because we are no longer suspicious of the motives of the cabinet branch agencies, and because we are in sympathy with what we consider to be your decent and humanitarian instincts, what would you say if we decategorized some of these things for you and, in turn, decategorized some of these things that relate to State action or city action, et cetera, and, although we didn't give you the whole bundle of cash on a revenue-sharing basis, that we move towards that and we strip out some of this specificity, and we in turn instruct you to pass on more of that money to the locals in a less encumbered way?

Mr. GREEN. Well, I would think as a general philosophy that is where we want to see the CETA activity go. That local units make that determination of what their needs are.

As you know, yesterday when I testified before you, you discussed problems on various program activities as to who is being served, and how efficiently they are being served.

It would seem to me that it would still require some Federal oversight to make certain that we move toward those targets of reducing high levels of structural unemployment, serving of inner-city youth, the elderly, these items that would require some consistent kind of oversight.

NEED FOR DEMONSTRATION PROJECTS

Senator EAGLETON. Yes, I remember yesterday's discussion about $400 million and the $200 million about these demonstration projects.

It seems to me we know an awful lot about there are young people in big cities that are not employed. We know that there are not a lot of immediately adjacent economic opportunities in big cities.

I gave my north St. Louis situation. We know pretty much the demographics of Harlem.

I sometimes think, you know, this demonstration project thing, I think that is in a sense sometimes a convenient copout similar to the thing Congress does.

We study something. We set up one of these study commissions, pensions for the military, we have got one of those now.

I think it is the ninth one, I think, ninth time sombody has studied it. And nobody wants to face up to it because of the veterans' lobby.

So one way to get it off our back for another 2 years is study it. Well one way to get it, I guess, off the backs of both the Congress and any administration in terms of indigenous unemployment in cities, well, we have got some demonstration projects.

We are going to have one in Harlem and one in the Chicago South Side. We will have one out in Watts. So that we can say, you know, we are really studying this and we are gathering a lot of information because this is going to be useful.

And the truth is we have an awful lot of information. For instance, what do you think you might learn from your demonstra-

tion of say, north St. Louis that you don't know now or couldn't know now very quickly by asking——

Mr. GREEN. The bulk of that demonstration project was on welfare reform. And I think no single issue before this country elicits a greater response, positive or negative.

We do think it's important to try to determine how many jobs are needed, what their functions would be, all of that before embarking on one program that confronts our country.

But on the private sector activity, that clearly is one that, as I outlined yesterday, a procedure that folds in our attempts to increase private sector involvement in training at the local level.

I think that is one of the definable differences in this effort than in previous attempts.

In addition to that, it builds the local industry commitments, allows the people that run the brewery or chemical company, if they are the principal employers, to get them involved in how to increase training for people in north St. Louis.

Senator EAGLETON. Will this be the first time that substantial Federal moneys were expended to try to ascertain some of these things?

Mr. GREEN. No, sir.

Senator EAGLETON. Yes. Yesterday somebody said——

Mr. GREEN. It goes back to the 1960's. The Johnson administration attempted a very large jobs program.

HIRE PROGRAM

Senator EAGLETON. Well, let's inquire about one you did try last year: HIRE, H-I-R-E.

Eight months since Congress appropriated $140 million for this—how much has been spent? How many veterans were hired?

Give me a little rundown on that?

Mr. GREEN. OK. HIRE is—I will leave the micro issues to Mr. Godwin.

Senator EAGLETON. Who is the micro man here? You are.

Mr. GREEN. HIRE—since its inception, involved two processes. One was voluntary agreements to hire, in which there were no federal dollars involved. And there have been roughly 70,000 pledges that the National Alliance of Businessmen has been involved in obtaining.

The other part is the contract side, and we have expended some $15 million involving some 9,000 contracts.

These are jobs that pay in excess of $5.50 per hour. We were continuing to increase the contract activity. And I have been very pleased. The range of contract programs includes industries, railroads, and heavy manufacturing.

There are a number of firms in with sizable contracts up to the size of 1,500 persons that have been signed with the Labor Department. We think that the HIRE programs for the initial press that it got is one that certainly is demonstrating the interest of private industry in our training activity.

Mr. GODWIN. Yes, our goal is 100,000 jobs and at the present time we have pledges of 70,000.

We have approximately 9,000 jobs——

Senator EAGLETON. Some of those pledges date back sometime, don't they?

Mr. GODWIN. No. These are all new pledges.

Senator EAGLETON. How new is new? What is the oldest one of these pledges?

Mr. GODWIN. The oldest one of these pledges would be September.

Senator EAGLETON. I thought you had gotten some pledges even earlier. You know it's like a Bonds for Israel dinner. I attend a lot of those. There's a difference between the pledge and buying the bond.

When are the pledges going to be fulfilled? That is, when are people going to be hired?

Mr. GODWIN. Well, of the 70,000 pledges, about 35,000, roughly half of them, are already actually hired.

Senator EAGLETON. How many? 35,000?

Mr. GODWIN. Yes. In terms of reimbursable program, the 9,000 jobs that we have on the contractual part of the program, again, roughly half of these people actually are in place.

Senator EAGLETON. Of these 35,000 jobs, these are Vietnam veterans who have been hired in the last 6 months?

Mr. GREEN. Yes.

Mr. GODWIN. Yes.

Senator EAGLETON. That you attribute to this program. I mean that you think but for this program, probably would not have been hired.

Mr. GODWIN. Exactly.

Senator EAGLETON. Now how many of these are, I think Mr. Green said there were two kinds of jobs, one where you just encouraged a company to do it in their best of motives, and then some of the jobs are subsidized.

Is that right?

Mr. GODWIN. Right.

Senator EAGLETON. Break that 35,000 down for me.

Mr. GODWIN. Of the 35,000, that figure relates only to voluntary.

Senator EAGLETON. That is voluntary.

Mr. GODWIN. We have 9,000 jobs under contract.

Senator EAGLETON. How, since they are doing it voluntarily and so you don't want to be heavy-handed, what kind of proof do they give you or what kind of—suppose a company says, well, we've hired 100 Vietnam veterans in the past month. Is that it? You take their word for it?

Mr. GREEN. We have, one, an evaluation contract that Mr. Hewitt's shop is proceeding with, to identify who the people are that have been hired on a voluntary basis so that we will have actual data to back that up and will not have just the pledge or the face of the pledge.

PRESIDENTIAL OVERSIGHT COMMITTEE

Mr. GODWIN. It's also important to point out that we have a Presidential committee to oversee the project.

Until recently, that was headed by Mr. Miller. And usually, in every case, the chief executive officer of the corporation could communicate with the chairman of the President's committee and

verify to him the number of pledges, number of people hired, and so forth.

Mr. GREEN. We might point out on that committee: It consists of veterans groups, as well as labor unions, so it's a tripartite arrangement.

Senator EAGLETON. 35,000 voluntary. How many were in subsidized slots?

Mr. GODWIN. 9,000. We have 9,000 under contract now not counting 1,500 jobs that we will finalize sometime this afternoon.

Senator EAGLETON. I don't want you to get me wrong, Mr. Green. I know in some of these areas of chronic high unemployment we can't expect you, that every program or everything that is done is going to meet with total success.

In some of these situations, you're dealing, in many of them, you're dealing with some very tough cases, people without the necessary skills.

Frankly, I think Job Corps does a pretty good job, considering that it's—everybody wants to hire the easy case, the class valedictorian. I can get him a job at McDonald's or get him a job a lot of places with the class valedictorian. And nobody wants to take that ninth grade dropout because the statistics on that are not great.

But somebody's got to work with them.

So I don't expect or could realistically expect that every program you take on is going to successfully meet with instant, total, resounding success.

You and I both wish it were that simple. But it isn't. So 9,000 subsidized with another 1,500 or so coming on very soon, today, maybe. 10,500.

What were the gross statistics on the number of unemployed Vietnam veterans nationwide?

Have we got any kind of an estimate on that?

Mr. GREEN. The last figures were, what?

Mr. HEWITT. 363,000 for December 1977. In 1976, the unemployment rate for Vietnam era veterans was 8.3. By December 1977 it had gone down to 5.7.

Senator EAGLETON. Well, that is good.

That is considerable progress. Would it be a reasonable conclusion to say, not all of that, but that some of that, some significant part of that would be attributable to the HIRE program, in your opinion?

Mr. GREEN. Yes. I think the effort to push the prime sponsors to enroll veterans at the rate of 35 percent of their PSE enrollment, and the activities of the employment services have all helped.

I think all of these concerted efforts, and the inclusion in the Department, of Mr. Mora, Deputy Assistant Secretary for Veterans' Employment, who is at the witness stand also, and the improvement of the economy have helped.

Someone once told me, Senator, that we can't identify which program specifically resulted in that, but as the rates go down we will take credit for it and work hard to reduce it even further.

Senator EAGLETON. Sure. You have $140 million budgeted for this in the current fiscal year 1978 budget, right?

Mr. GREEN. Yes, sir.

Senator EAGLETON. Will you spend that by September 30?

Mr. GREEN. We are expending on the contract side probably about a third, a quarter of that.

ESTIMATED OBLIGATIONS

Mr. WALKER. Yes, we expect this year to spend approximately $50 million. We will obligate the entire amount. We will probably spend out the remainder over fiscal year 1979.

Senator EAGLETON. Now you are not asking for any funds for this for fiscal 1979?

Mr. WALKER. No.

Mr. GREEN. We expect to be able to continue it with our present effort and not need any new money to maintain the program.

Senator EAGLETON. Well, is it a question of new money or—the budget doesn't request any money for fiscal 1979.

Mr. GREEN. No, it is not being abolished.

Mr. WALKER. We are not requesting any new budget authority for fiscal 1979; that is correct.

Senator EAGLETON. Come September 30, if you have spent your $140 million, what are you going to have to spend on October 1?

Mr. WALKER. Well, of the $140 million that we have to obligate this fiscal year, we will obligate all that. We will have spent, we estimate, $50 million by the end of the fiscal year and that will leave us with $90 million more for next fiscal year, and our budget request indicates that we would spend $75 million of that in fiscal 1979 and $15 million in fiscal year 1980, of that $140 million.

So really the bulk of the program expenditures, outlays, would occur more in 1979 than in fiscal year 1978.

Senator EAGLETON. Did you all ask for this last January, February?

Mr. WALKER. This was one of the economic stimulus programs that we asked for.

Senator EAGLETON. That you all asked for, it was not foisted upon you, was it?

Mr. HEWITT. It was part of the Carter stimulus package.

Senator EAGLETON. And he asked for $140 million for fiscal 1978, didn't he?

Mr. WALKER. Fiscal 1977 we asked for, I believe——

Mr. HEWITT. We got $140 million for an 18-month period, 1977 and 1978.

Senator EAGLETON. He asked for $140 million, fiscal 1977 and fiscal 1978. You have already done fiscal 1978. But you are not going to spend $140 million in fiscal 1977 and fiscal 1978.

Mr. WALKER. That is true.

Senator EAGLETON. Why was the estimate so big, or the requested amount so big, and the expenditure level so small?

Mr. GREEN. As we said earlier, sir, the initial thrust of the program was both the volunteer and the contract portion.

We have done more on the volunteer side than on the contract side.

And it was an unknown as to how much of the 100,000 slots would be obtained through contracts as opposed to volunteer. We estimate that we will exceed the 100,000, but we are continuing to utilize the program and we will expend those dollars even if we go beyond 100,000 in placement.

Senator EAGLETON. Well, I am sure the program has not maybe lived up to full expectations. But do you anticipate asking money for this program for fiscal 1980?

Mr. GREEN. We anticipate at this point that as our general indicators show, when unemployment begins to recede, that we will be able to utilize our ongoing program institution to focus on the question of veterans and other affected groups, and would not see that as a necessity at that time.

Senator EAGLETON. There is a vote on. I have some background I want to glance at anyway; then I may have to run over and vote.

OLDER AMERICANS

Moving on to the older Americans. OK. That is fiscal year 1978 budget authority, $220 million. Fiscal year 1979, $228, right?

Mr. GREEN. Yes, sir.

Senator EAGLETON. Handling the same number of enrollment opportunities, namely 47,500. Do we have that number of enrollees at the present time or pretty close thereto?

Mr. HEWITT. No.

Mr. GODWIN. We have approximately 37,000 enrollees at the present time.

Senator EAGLETON. Is that a rather constant figure, or does it vary widely?

Mr. GODWIN. It is pretty constant.

Senator EAGLETON. And you have got five national contractors, I take it—National Farmers' Union, Green Thumb; National Council of Senior Citizens, Senior Aids; National Council on Aging, Senior Community Service Project; AARP, along with the National Retired Teachers' Association, Senior Community Service Aids; and then the U.S. Forest Service—as persons employed under these programs.

Now you do not have anything to do with the Forest Service in this budget, do you?

Mr. GREEN. They are included, yes.

Mr. GODWIN. They are one of our contractors.

Senator EAGLETON. They are one of your contractors.

Mr. GREEN. Also, the State agencies are now operating a part of the program.

Senator EAGLETON. How much of this is—of that $220 million roughly, how much is State agencies and how much is national contract?

Mr. GODWIN. Twenty percent is State agency.

Senator EAGLETON. Twenty percent.

Mr. GODWIN. The remaining 80 percent would be national contractors.

Senator EAGLETON. Isn't that the formula we got bludgeoned into accepting?

So 80 percent of $220 million is about $175 million that goes to the national contractors.

Now I see that every national senior citizens organization, when you talk of National Council of Senior Citizens, National Council on Aging, AARP, and National Retired Teachers' Association, those are the four preeminent national contractors in this area, and each one of them gets a hunk of this, right?

Mr. GREEN. Yes, sir.

Senator EAGLETON. That is just the pragmatic facts of geriatric politics.

Mr. GREEN. These are five program operators with a track record, and they have performed well. We continue to support them.

Senator EAGLETON. Can you give me the enrollee breakdown? Total figure is 37,000, I think you said.

Mr. GREEN. 37,400.

ENROLLMENT INFORMATION BY NATIONAL SPONSOR

Senator EAGLETON. Give me how many are Green Thumb, how many are Senior Aids, how many are senior—I have got five line items. National Farmers' Union, they do Green Thumb.

How many enrollees in that?

Mr. GODWIN. That should be in here.

Senator EAGLETON. Well, while I go over to vote, dig those out for me and give them to Jim and I will move on here a minute.

What do you think about that 80-20 split? Do you think that is fair enough?

Mr. GREEN. Well, I——

Senator EAGLETON. Do you think these national contractors, in your opinion, will they spend it better than the States?

Mr. GODWIN. Yes, the experience has indicated in many cases State governments allocate their 20 percent share to one or the other of these sponsors. All of which operating programs have demonstrated effectiveness.

And this, together with——

Senator EAGLETON. Do you have any breakdown in your figures as to costs of administration versus moneys that get to people?

Mr. GODWIN. Yes, very low cost administrative——

Senator EAGLETON. Supply those for me, too, will you, what you all include as administrative costs for all five of these.

I won't bother to keep repeating the list, but you know the five I am talking about. Do the administrative costs of these five vary markedly, one unto the other?

Are some very minimal administrative costs, some are a little more substantial?

But anyway the figures will speak for themselves.

Mr. GODWIN. Yes.

[The information follows:]

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

Estimated Slot Levels and Unit Costs of National Contractors for Program Year 1977

National Contractor	Slots	Unit Cost
Green Thumb, Inc.	12,641	$4,006
Wages and Benefits		3,329
Administration		405
Other 1/		272
National Council on the Aging	3,288	4,012
Wages and Benefits		3,210
Administration		578
Other 1/		224
National Council of Senior Citizens	7,011	4,009
Wages and Benefits		3,556
Administration		281
Other 1/		172
National Retired Teachers Association - American Association of Retired Persons	5,125	4,009
Wages and Benefits		3,380
Administration		601
Other 1/		28
U.S. Forest Service	2,548	4,007
Wages and Benefits		3,338
Administration		509
Other 1/		160

1/ Reflects costs directly related to enrollees, including training, supplies, and materials.

Senator EAGLETON. You know, the U.S. Civil Rights Commission—well, when we come back I will go into that. That is the 5-minute buzzer. I will be right back.

[Recess.]

Senator EAGLETON. You will get, for the record, that breakout of number of enrollees, or clients, or whatever the term is, administration costs for the five programs?

Mr. SHINE. Yes, sir.

Mr. WALKER. I believe, Senator, that the administrative costs for that program range somewhere between 8 and 12 percent.

Senator EAGLETON. Well, whatever it is, break it down by program. How much for Green Thumb? How much is administration? The senior aides? Give us a breakout on each one.

U.S. Civil Rights Commission, you know, had some things to say about age discrimination, and they found that the Labor Department employment and training programs were—seriously underrepresented the elderly.

What can be done to improve the level of services, et cetera? What is your rejoinder to the U.S. Civil Rights Commission finding?

OLDER WORKER PARTICIPATION IN CETA PROGRAM

Mr. GREEN. Well, on the participation, now, the data we have for 1977 participation, title I, and in II and VI of the PSE program, there has been about a 1-percent increase, I think, in the levels of participation.

One is, as we try to target one general premise I laid out yesterday. Also, on our enforcement activity that—and the plans that the prime sponsors will submit seems to me we have an opportunity to increase the levels of service to older citizens, and we see the trend, and we are working on it to try and rectify that.

But I would venture that we couldn't with what we are doing, monitoring it, seeing what the plans are submitted, seeing what the service levels are that the prime sponsors have in those areas.

And if they are not responding to them in an adequate manner, move to correct that.

Senator EAGLETON. Did you say that of the CETA slots about 1 percent——

Mr. GREEN. There has been an increase. The level of participation in 1976 was about 6.8 percent for persons 45 and older, and in 1977, it's gone up to 7.6 percent in title I. For title II it's 15.3 percent and for title VI it is 14.8 percent in 1977.

Senator EAGLETON. Senior citizens in the CETA slots are 45 years or older. I guess you don't have the statistics for 60 and older, and 65 and older; but I imagine they are mighty few in number.

Mr. GODWIN. We have those figures.

Senator EAGLETON. Do we have them? Say 60 and over? What kind of figures do you have? What age group?

Mr. GREEN. These are not for CETA, title I.

Senator EAGLETON. Wait a minute. I have to find my other sheet here. Title II.

Mr. WALKER. For title II and VI combined, approximately 9 percent were aged 45 to 54, and an additional 5 to 6 percent above

that were 55 and older, so that approximately 15 percent of the enrollees in titles II and VI in fiscal 1977 were aged 45 and above.

Senator EAGLETON. You are not counting some of those twice, are you?

Mr. WALKER. No; I am not.

Senator EAGLETON. You have got people 45 and over, and people 60 and over.

Mr. WALKER. No. 45 to 54, and 55 and over.

Senator EAGLETON. All right.

For fiscal 1978, jobs for the elderly appropriation was expected to support, about 47,500 participants. What is your estimate as to the number of older Americans eligible for this program?

FIVE MILLION ELIGIBLE OLDER AMERICANS

Mr. GREEN. The universe of need, somewhere in the neighborhood of 5 million, I think.

Senator EAGLETON. Now, getting back to that last question, would there be 5 million elderly people within the economic status that would make them eligible, as participants in the program, elderly—

Mr. GREEN. Yes.

Mr. GODWIN. Yes; we would estimate that there would be 5 million that meet the eligibility criteria, and of that 5 million, we would estimate that 4 million would be able to perform part-time work.

Senator EAGLETON. What is your rule of thumb? This sort of gets back to what I was saying earlier.

OK. You are reaching 47,000 elderly people. That is certainly better than maybe not reaching any. Yet, 47,000 is about 1 percent of 5 million. If you have a program that is designed to reach a certain noble and humanitarian objective, but you know it is only doing 1 percent of the job, should you have the program at all?

Mr. GREEN. I think that the function of that part-time employment goes to that. If you look at employment service there were roughly 380,000 people over the age of 45 placed in employment.

If you consider the economic stimulus program and the resulting increase in jobs, and the 15 percent we cited for titles II and VI, as well as the increase for title I, we serve more of the universe than just through the older American program.

Senator EAGLETON. Well, we had a figure here in one of these charts, if you added them all together, what is that figure? If you add everything under CETA itself about 2 percent reaches the elderly. Is that right? Fifty-five or above?

Mr. GREEN. Based on 1976 and 1977 characteristics.

Senator EAGLETON. It is 55 and above. Well, I guess the answer is that it is better than nothing. I had a program that had great promise. It was called the Right to Read. Catchy titles. Good thing to give a speech on. People understand the right to read. Every kid ought to have the right to read in the United States.

What have we got appropriated? We have $27 million appropriated for that nationwide. We probably would need that much in New York City, maybe in the D.C. schools to really make any inroads, any measurable substantial inroads on the scandalous inadequacies in terms of reading skills in the United States.

I may no longer support my own program. In a sense, it is a sort of deception. In a sense, it permits me, and other Senators, and other people to run around and tell me we are doing a terrific job on reading.

We now have a Federal program where everybody has the right to read. But it is a deception in a sense because we are not really doing anything, $27 million.

In a sense, I guess, there is some of that with senior citizens. You make all the national organizations happy because they get a pretty good hunk of that contractor pie, and they are pleased and happy with that, so they are not on our backs too much.

I wonder though, if we are really doing anything?

Mr. GREEN. Well, on the service activity, I could think that the program has real impact. It serves not only a means of increase for those people in that age group, but the services performed are of general benefit to that community that they are performed in.

I think that is an important function.

Senator EAGLETON. 5 million eligible, 47,000 participating.

Mr. HEWITT. I guess the dollar resources that would be implied in any of the social programs we deal with to reach the full universe of need, you take 100 times $228 million, and you have $22.8 billion just to serve the universe for that program.

Senator CHILES. Aren't we talking about 2 percent of CETA jobs that are going to the people over 55?

Mr. HEWITT. Yes.

Senator CHILES. You can use your figure of only 1 percent talking about the need, but I am talking about the CETA pie now. And the whole CETA pie as I understand it, only 2 percent of that is going to people over 55.

That doesn't sound to me like a very good distribution of the pie.

PROCEDURES INSTITUTED IN REAUTHORIZATION OF CETA

Mr. GREEN. Senator, as I indicated to the chairman, the one procedure we are trying to get instituted in the reauthorization of CETA is an affirmative action activity that looks both at clients and at the makeup of staff which hasn't been in the legislation, and is not in it now. I think this action as well as the ability to target the people who need our programs is an important piece of the CETA pie.

We are trying to get the dollars to those who are most in need.

Senator CHILES. Well, there are as many people over 55 in desperate straits, wouldn't you say, as there are in any other kind of age group?

We know we have high unemployment with youth, but we also have got awfully large problems with that guy 50 or 55. He cannot go get a job anywhere. No one is going to go hire him anywhere. He is like the young man at the bottom of the scale. He cannot get a job either.

Senator EAGLETON. The Commerce Department is phasing out a jobs for the elderly program they have, I gather. Are you asking for any budget increase to absorb those jobs that the Commerce Department had?

Mr. GREEN. We are absorbing them through our title I discretionary account.

And will continue to provide for them until we can either absorb them through other ongoing programs, but we are committed to continue to finance that through our discretionary funds.

Senator EAGLETON. By attrition you are going to work them all into ongoing programs. So in essence the ongoing programs are going to have 5,300 fewer slots than they otherwise would have had if Congress had kept the program, right?

Mr. GREEN. Well, we are providing $22 million out of the discretionary account in 1978 to take care of the 5,300 individuals.

If you, I suppose, carried the additional 5,300 people for the next couple of years that would be the case.

Those individuals who are now in those slots, we will absorb them and bring them into the title IX program.

Senator EAGLETON. Let me see if I understand this.

Your budget on this is what, title X? IX?

All right. Your budget for title IX accounts for what, the same number of jobs, and you are going to absorb 2,600, if we read these figures right, this year.

That leaves 2,200. And so there are going to be fewer jobs, is that what we are saying?

Mr. GREEN. There will be 2,700 that will be continued to be funded from our CETA title I discretionary account.

And in fiscal year 1979 we have set aside $13 million in our discretionary funds to accomplish this purpose.

Senator EAGLETON. OK. Anything else on the elderly?

Anything, Lawton, on elderly? Anything else you want on that? We can come back to it anyway.

Senator CHILES. Yes, go ahead.

RELATIONSHIP BETWEEN THE EMPLOYMENT SERVICE AND EMPLOYERS

Senator EAGLETON. All right.

The Employment Service in its efforts to improve services to job applicants has been criticized for not being fully appreciative of the employment needs of businesses.

What are you doing to establish a more productive relationship between the Employment Service and the employers?

Can you give us a few specifics on that?

Mr. GREEN. We had instituted a program—even the acronyms sometimes leave me—the job service improvement program, which was to create at the local level employers' committees.

Senator EAGLETON. JSEP or something?

Mr. GREEN. JSIP. Since coming into the department I set a goal to increase that activity by 100 percent to raise the number to 500 of these committees. We have been able to notice an improvement in the number of orders placed and an increase in the quality of those orders where we have these committees in place.

It is a project that operated in 250 employment service offices at the local office level last year and has been one through which we have begun to notice an increased relationship.

Senator EAGLETON. Tell me how that committee works. With whom do they work and how well run a committee is it?

Mr. GREEN. It involves major manufacturers and employers in that local employment service area. It is headed up nationally by

the vice president of Sharon Steel which is a medium size steel firm in Pennsylvania.

Burt Lewis, who is the staff person in charge of the employment service, might want to add some points to that.

Mr. LEWIS. Yes, coming into the beginning of the current fiscal year, Senator, we had, as Mr. Green said, about 250 committees already established that represented 44 States and about 5,000 different employer representatives.

Typically, the way the committee works is that a sponsor is found in the community, usually the local chamber of commerce. A committee is organized of both users and nonusers of the employment service around the local office.

A change agent is put in there and the initial task is to come up with a plan which incorporates suggestions by employers to improve the service delivery to employers.

Suggestions typically will focus on response time, better screening of applicants to meet qualifications, and the like.

In addition, usually the recommendation of one of those committees is to restructure some of the staff in the local office around an account executive-type concept, rather than have simply anyone who happened to be on the phone respond to the employer's call.

We believe we will be able to reach 500 committees by the end of this current fiscal year. That is a special activity.

EMPLOYMENT SERVICE VISITS AND CALLS

I would like to add that we still continue regular employer visitation and service activities. There were roughly 1,800,000 employer visits by the staff last year in the States and another 1,800,000 telephone solicitations.

The result of——

Senator EAGLETON. What do you mean 1,800,000 employer visits? Somebody from the Employment Service called on 1,800,000——

Mr. LEWIS. Yes, a person from the Employment Service. There were 1,800,000 recorded visits and another 1,800,000 telephone solicitations, phone calls to employers for openings.

The result of that is that nonagricultural openings received have been going up. I could not attribute this just to any one activity. It is partially the economy, partially a reorientation of the Employment Service itself.

Over the past 5 years we have been pushing them in our annual program budget messages to do this; 7.9 million nonagricultural openings were received in the last fiscal year, which was a 13-percent increase.

More importantly, longer term openings, or what we record as openings that are 150 days or over, went up about 12 percent and represented almost 5½ million of those openings.

Qualitatively, we feel like we are getting a boost as well. As more job matching sites come onstream, we would hope that one of the effects of that would be to improve the response time on order filling, and we could continue to make inroads.

Senator EAGLETON. Well, we will come back again folks, I am sorry.

[Recess.]

FOOD STAMPS

Senator EAGLETON. Last year the Department of Agriculture transferred $28 million to the employment services to implement the mandatory, quote, "work test requirement under the Food Stamp Act."

Is the $28 million a sufficient amount to effectively implement the work test requirements?

Mr. GREEN. We think not. We have communicated—we are in discussions now with the Agriculture Department, attempting to increase that. But the $20-some-odd million has not been sufficient to adequately suffice——

Senator EAGLETON. You want them to increase it, but out of their funds, I dare say.

Mr. GREEN. We are attempting to find sufficient funds out of their budget for it, yes, sir.

NEED FOR A SUPPLEMENTAL

Senator EAGLETON. Is there enough in your current grants to States budgets to finance unemployment insurance through the balance of fiscal 1977 or 1978, I guess we are talking about? Through the balance of fiscal 1978.

What we are driving at, is it likely we are going to have a supplemental?

Mr. WALKER. No, sir. We feel that, based on our assessment of the projections for the remainder of the year, as well as our experience to date, we have enough, and barring any major change in unemployment, we would not require additional funds.

MAXIMUM NUMBER OF WEEKS OF UNEMPLOYMENT COMPENSATION

Senator EAGLETON. Where do we stand now? This is a memory refresher for me. You know we kept adding additional 13 weeks.

Mr. WEATHERFORD. Yes, sir

Senator EAGLETON. Did all those additional deals expire now? Are we out of the additional business?

Mr. WEATHERFORD. Today, January 31, is the last day of that temporary program, what we call the Federal supplemental benefit program, that during the height of the recession went to 65 weeks. Then we cut down to 52 weeks.

We are now out of business on that altogether.

Senator EAGLETON. Just self-educate me, help me self-educate myself on Missouri.

They have a basic 26. Is it one 13——

Mr. WEATHERFORD. They have an additional 13 weeks, when unemployment in Missouri goes above 4 percent——

Senator EAGLETON. Is that what it is? Is it over that now?

Mr. WEATHERFORD. Missouri is not—it was paying up to 39 weeks because the national extended benefit trigger was on. In that program you have a State trigger and national trigger. The national trigger went off the week of January the 7th.

So last week was the last week under that program and Missouri is down to its 26 weeks and that's it.

Senator EAGLETON. And no trigger State or national or anything.

Mr. WEATHERFORD. No, sir. However, there are 11 States who will continue to pay up to 39 weeks under State triggers.

Senator EAGLETON. None are paying beyond that?

Mr. WEATHERFORD. No, sir.

Senator EAGLETON. The 11 have certain State triggers.

Mr. WEATHERFORD. Yes, sir.

Senator EAGLETON. We did get up to 65, didn't we, at one time?

Mr. WEATHERFORD. Yes, sir, we did, during the height of the recession.

WORK DISINCENTIVE ASPECTS

Senator EAGLETON. What about this—maybe I asked you this last year—what about the age-old argument that workman's compensation benefits and the length of the benefits, I guess this question would have been more pertinent a year ago when we were up to, say 65 in some of these programs.

But you know it gets a lot of mail. We all do. The unemployment benefits are so attractive that there is a disincentive to work, or it's an incentive to stay on unemployment.

If I asked you that last year, give me the answer again this year.

Mr. WEATHERFORD. Yes, sir, I think——

Senator EAGLETON. You hear it all the time, too, I'm sure.

Mr. WEATHERFORD. Yes, sir, we certainly do.

I think as a basic argument, I guess this is philosophical more than anything else, Senator Eagleton, that having unemployment benefits available allows people to take longer to look, and look for a better job.

And I think that at the heart of the unemployment insurance program, that is what it's all about. Not necessarily to take longer to look for work, but to get a job in relation to what they have done, to look for suitable work, if you will.

We found some evidence in our research as a result of some of the long-term programs that other income in the family, pensions, for example, had some real impact on how long benefits were drawn.

It gave us some concern that there were people in the program that would draw as long as you would pay.

However we believe that since the economy has improved and the benefits have cut back and we have moved back to our normal, regular program, that it really doesn't represent a major factor. It would be wrong to say that there are not people that won't draw the benefits out. But we have some good numbers that have shown improvement as we have had a chance in the last year to start interviewing people about what they are doing about finding a job.

Bert Lewis talked about the increase in ES placements. Well there was a substantial increase in the placement of unemployment insurance claimants. Also we have good numbers on PSE jobs where we moved people into these jobs, and the number of people in the insured work force has come down.

Senator EAGLETON. Now that we are back to, say, traditional 39 weeks, that argument that I expressed might have been a little more valid last year than this year.

Mr. WEATHERFORD. I think so, yes, sir. We had a problem with people believing that they could find a job if they looked for it

during the height of the recession. There were not a lot of jobs to look for.

When we have our more traditional program of people between jobs and going back to the same employers—we found——

Mr. GREEN. As I said earlier, Senator, that using some of the other program components, we have been able to focus on unemployment insurance claimants, as Larry mentioned, PSE and employment services, and that there has been an increase in our ability to get those individuals placed into these jobs.

Senator EAGLETON. Yes.

Mr. WEATHERFORD. We have shown, for example, that the denial of benefits, Senator Eagleton, on not looking for work, on refusing work and what have you, are up 60 percent—the rate, not the numbers. The numbers are up too, but the rates are up 60 percent over 1975.

Senator EAGLETON. Rate of what?

Mr. WEATHERFORD. Of denials of benefits to our total number of claims. As we had time to go back and interview people, we found those that were not looking, and States have taken them off the rolls.

Senator EAGLETON. What is this disabled veterans outreach program, $5 million in fiscal year 1978? You are not asking for any funding in fiscal year 1979.

DISABLED VETERANS OUTREACH PROGRAM

Mr. GREEN. This was part of the economic stimulus program. Augmented the Employment Service staff by some 2,000 individuals, disabled veterans who participated in additional recruitment. We expect that in fiscal year 1979 we will absorb 500 of these individuals in regular Employment Service, through attrition, mainly.

And that the remaining 1,500 will be funded from our CETA title I discretionary funds.

Senator EAGLETON. You say there were 2,000. Were these people hired out of your budget and placed in the VA offices around the country?

Mr. GREEN. No; they were hired and placed in the Employment Service offices. The larger metropolitan areas that had high veterans employment areas, this is where we concentrated.

Mr. LEWIS. What we did was essentially establish outreach units, consisting of disabled Vietnam era veterans, predominantly, funded out of CETA money to augment local Employment Service staff.

Senator EAGLETON. The people were themselves probably disabled veterans, and they would call on employers in person?

Mr. LEWIS. They initially were trained in local office operations, and then primarily used to outreach other disabled veterans.

Senator EAGLETON. None of them are being Rif'd or anything like that; they are being absorbed?

Mr. LEWIS. At this point, roughly—to fill the 2,000 slots, about 2,260 hires were made. I understand it is still early on in the program, out of about 300 who have turned over in those jobs, 70 were absorbed into the regular state agency merit systems. About 110 found jobs in the private sector and the rest either went back to school or quit because of health reasons.

But, based on limited experience, we are optimistic we would be able to absorb the other 500.

APPRENTICESHIP PROGRAMS

Senator EAGLETON. What comes under this category, "other national programs, skilled trades training"? What is the justification for funding apprenticeship outreach and training programs in skilled occupations currently experiencing high unemployment?

Mr. GREEN. Well, as a policy of the Department to try and increase both participation of women, as well as minorities. This is a special focus program in that area.

Apprenticeship outreach. And its mission is to, even though in some trades, it is true that there are high levels of unemployment, as the picture begins to improve, still we have the issue of seeing that all of our citizens are served on an equitable basis by apprenticeship programs, and this is a program thrust at that particular problem.

Senator EAGLETON. Is this an area where you can use a carrot and stick, insofar as getting blacks into apprenticeship programs?

Mr. GREEN.There are rules and regulations that oversee apprenticeship and its affirmative action activity. And, as an additional augmentation of that is to supply the people, so that local apprenticeship committees do have qualified youngsters, if they are black or Hispanic, or whoever, and that they are able to go forward and become apprentices.

Senator EAGLETON. Do you all have, or does OEO have it, who would have it? Give us statistics on minority representation in the various skilled crafts.

Mr. GREEN. We would have that.

Mr. MURPHY. We have fiscal year-end statistics, Senator Eagleton, that show a percentage point of 18.3 percent, for all minorities. That is black, oriental, American Indian, Spanish-American.

Senator EAGLETON. 18.3. Those are all the skilled crafts you are talking about?

Mr. MURPHY. Skilled crafts.

Senator EAGLETON. Overall?

Mr. MURPHY. Approximately 245,000 apprentices.

Senator EAGLETON. Those are apprentices?

Mr. MURPHY. These are apprentices.

Senator EAGLETON. Now, your 18 percent, in terms of people who are practicing in the profession, would be smaller than that?

APPRENTICESHIP PROGRAMS FOR MINORITY YOUTH

Mr. GREEN. Of skilled people, yes.

Mr. MURPHY. Oh, yes.

Senator EAGLETON. 18.3 percent, overall apprentice. Do you have it broken down by crafts? Do you have carpenters, electricians, plumbers, bricklayers?

Mr. MURPHY. I can supply that for you, sure.

Senator EAGLETON. Supply that for me.

[The information follows:]

MINORITY APPRENTICESHIP PARTICIPATION
BY SELECTED OCCUPATIONAL GROUPINGS
REPORTING PERIOD 01 JAN THRU 30 JUN 1977

	Total Apprentices	Percent Minority
Air Cond. & Refrigeration Mech.	1690	18.6
Aircraft Mechanics	387	11.1
Auto & Related Mechanics	8418	24.5
Auto & Related Body Repairers	1899	18.8
Barbers & Beauticians	1277	18.2
Boilermakers	3213	13.3
Bookbinders & Bindery Workers	722	14.2
Bricklayers Stone & Title Sets	6497	22.9
Butchers & Meat Cutters	2491	24.0
Cabinetmakers, Wood Machinists	1645	21.0
Car Repairers	3704	17.8
Carpenters	32048	18.9
Cement Masons	2345	45.8
Compositers	692	11.5
Cooks & Bakers	1594	28.3
Drafters	828	10.0
Electrical Workers, NEC	6162	15.5
Electricians	28659	15.5
Electronics Technicians	1579	19.2
Floor Coverers	1127	22.6
Glaziers	1092	21.2
Industrial Technicians	840	25.6
Insulation Workers	2129	21.2
Lathers	1113	29.1
Line Erectors Light & Power	3881	14.0
Lithographers Photoengravers	977	11.8
Machine Set-Up & Operators	1332	19.0
Machinists	14897	13.8
Maintenance Mechanics	4502	14.3
Mechanics & Repairers, NEC	3695	16.6
Medical & Dental Technicians	680	18.9
Millwrights	4718	14.9
Molders & Coremakers	593	20.9
Office Machine Servicers	1648	19.2
Operating Engineers	5313	30.5
Optical Workers	500	11.4
Ornamental Ironworkers	214	27.1
Painters	5773	25.7
Patternmakers	821	6.1
Pipefitters	12158	16.7
Pipefitters-Steamfitters	998	34.0
Plasterers	953	37.9
Plumbers	15557	14.4
Press Operators	2140	15.7
Printing & Publishing Workers	1154	13.5
Radio & TV Repairers	789	11.6
Roofers	4087	32.6
Sheet Metal Workers	10009	18.7
Sprinkler Fitters	2322	15.6
Stationary Engineers	1654	16.9
Structural Steel Workers	6853	21.3
Tapers & Dry-Wall Installers	866	23.9
Toolmakers & Diemakers	10771	7.6
Miscellaneous Trades NEC	12591	19.5
U.S. Total	244597	18.3

REPRESENTATION IN CARPENTRY TRADE

Senator EAGLETON. Who is doing the best and who is doing the worse?

Mr. GREEN. In terms of percentages?

Senator EAGLETON. Yes.

Mr. MURPHY. I guess the carpenters probably, have a larger number of craftsmen, and they are the largest, of course, in the building industry, as far as crafts, by number.

Senator EAGLETON. Those are gross numbers, but do they have the largest percentage representation in there——

Mr. MURPHY. I think off the top of my head, Senator Eagleton, they have about 19 percent participation by minorities. But they are not very far apart. The skilled crafts in the building trades, particularly, they have plumber, pipefitter, electrician; they have all done a fairly substantial job in the last couple of years.

Senator EAGLETON. Give me those figures. It is one thing to be an apprentice, and it is another thing to get hired.

How do you keep your statistics on people coming into professions, actually working at their professions?

Mr. GREEN. Going into the trade?

Senator EAGLETON. I am talking about trades.

Mr. GREEN. Well, one of the biggest items that would assure this is the monitoring of this particular effort, and it is one that I have some familiarity with. The programs have been able to track the apprentices and whether they move from apprentice status to skilled status.

Senator EAGLETON. If the overall figure is 18 percent minority, therefore, it is 82 percent white.

Now, some jobs open up in the skilled profession. If they draw from the 82 percent white, and don't draw as much from the 18 percent minority, the guys actually working as plumbers, carpenters, et cetera, I mean what statistics do we have that show that blacks are really getting in?

Mr. GREEN. Well, the participation rates of blacks in trades in general, we could supply as craft people. Not only on plumbing activity, but the other side of the Labor Department's enforcement activity would impinge upon this. And the affirmative action OFCCP activity in the construction area has certainly generated some of that. So it could be used as carrot and stick.

We try to supply the people. OFCCP is involved in the enforcement activity.

Senator EAGLETON. We have got them, apparently, later this week.

Mr. GREEN. And we have one of our other program thrusts to link together our affirmative action activities through a grant that we are jointly funding, with the Employment Standards Administration.

SKILLED TRADES TRAINING PROGRAM

Senator EAGLETON. I have got a few questions, Mr. Green, on skilled trades training programs; and apparently that is going to wrap us up.

The Labor Department finds a variety of training programs in various skilled crafts, such as the apprenticeship program and skilled construction occupations. Even though many of the occupations are plagued by high unemployment, what is Labor doing to make sure that individuals are trained only for occupations that have good employment prospects? I hear this quite often.

I set up the first vocational training system in Missouri when I was the Lieutenant Governor. They didn't have anything for me to do, so I did that. I, when I go around in Missouri especially, I frequently go into these vocational training schools, and I think they are marvelous.

But, occasionally, well, more than occasionally, somebody in the area will say yes, they are training a lot of people for vocational skills; but quite sadly, the ones they are training them for, there ain't no jobs in that category or in that subject matter. And how would you comment on this dilemma?

Mr. GREEN. I would comment on that: If there is any deficiency in all of our activities, it's how we get information about the local labor market.

Senator EAGLETON. Yes.

Mr. GREEN. And to be able to have that as precise as you can, and that's certainly not a science that we have perfected down to the last point.

But we think that the process of how the local prime sponsors plan, the plans they submit to us, have to be based on some realistic appraisal of what is available in terms of jobs, what the availability of jobs is.

It seems to me that the point I tried to make about our private sector initiatives is that one of the elements that's been missing is to have adequate participation by the business community that knows what their needs are, what their projected needs are, to bring them into the planning process.

It is one of the things that we hope to achieve through these private sector initiatives.

Senator EAGLETON. That is very important.

Mr. GREEN. I would say that if the system is perfected, that's clearly a central issue that we all are involved in, how we get the information, how accurate it is, how it is projected on a long-term basis, and that in St. Louis, that they are planning for welders, that the firm down the street, down the road in the next county is going to hire welders for the next 10 or 15 months.

Senator EAGLETON. Yes, and also you get caught on the horns of a dilemma. Let's suppose you are training some young black guys for some of the skilled crafts, you know, that maybe there's a slight surplus of the skilled crafts.

If you don't have some of them start to train for it when some jobs open up, you don't have any trained young men to get into that line of work.

Mr. GREEN. On a philosophical basis, you do better at training at a point when you are in a downturn, rather than to wait for the economy to boom back up, because then it is too late to catch up with the cycle. It is trying to orchestrate that.

MONITORING SKILLED TRADE TRAINING PROGRAMS

Senator EAGLETON. Yes, it is very, very tough.

How do you monitor some of these training programs, and worksites, and what have you? What does your department actually do to monitor what is going on?

Mr. GREEN. Well, if they are under national contract, they are monitored out of Mr. Godwin's office. If they are through the CETA program, they are monitored through our regional office.

Senator EAGLETON. How do you monitor those that you have under the national office?

Mr. GODWIN. Well, we make field visits to project sites.

Senator EAGLETON. What do you look for? What do you do on a field visit?

Mr. GODWIN. Well, we check to see how the program is doing in terms of fiscal accounting, and so forth. We discuss problems with the program operators.

Sometimes, we interview clients, get feedback from them as to how they feel that the program is working. We can touch base with a variety of different employer or labor union organizations that come in contact with the program operators, get impressions from these sources as to how well the program is being implemented.

Senator EAGLETON. Have you had any instances in the past year where you have refused to renew contracts with any group responsible for training skilled craftsmen because of poor employment prospects for the individuals, who had completed whatever the prescribed training course was?

Mr. GODWIN. Not for that reason. We have refused to renew contracts because of poor performance, and in that sense, you could say poor prospects, persons who are to be served by the program.

But, as Mr. Green was pointing out, in terms of the construction industry in particular, this is an industry which has a very predictable cyclical course, and it is important to not only take that into account when you fund training programs, that is, moving from a period of extreme shortage to a period of extreme surplus, and then back again. but also to consider some important geographic shifts.

We have found, for example, that there has been a substantial expansion of federally financed construction in rural areas.

TARGETING OF CONSTRUCTION TRAINING

We look at the TVA region. We just released a report that was prepared for us by people at ERDA projecting a demand for 60,000 skilled construction workers in the TVA region. One project alone, which is in a remote rural area, requires 600 electrician jobs, and the surrounding areas have hardly any skilled electricians.

So, we have tried to target more of our construction training activity in these rural places where these big federally financed construction projects are occurring. You find an extreme shortage in a place like Alabama and Mississippi, where you have the Tennessee Valley region or TVA, and you find a big surplus in New York City.

So we are targeting our training efforts.

Senator EAGLETON. When you have that, like the shortage in Mississippi, what does the Labor Department, and you are short there, and long up in New York City, what—do you try to contact some of those guys in New York City, and say, "Hey, do you fellows know there's some pretty good work down here?"

Mr. GODWIN. Most of our training contracts——

Senator EAGLETON. Now, I am off training a little bit.

Mr. GODWIN. Yes, but we operate through international unions, and they coordinate the workers from surplus areas to areas of demand.

Mr. GREEN. We have set up through an information publication we put out through the employment service to identify where there are excesses of jobs.

The other part is that we hope to make the issue of seeing that people move from place to place, or to relocate them as an activity that we can pursue under CETA. I think it is an important part of our employment strategy.

Senator EAGLETON. I had a recent experience with trade adjustment assistance.

We had an iron mine close up shop two days before Christmas, which was a joyous occasion. There were 1,100 miners there. Your trade adjustment people went out immediately. They found, I think, a couple hundred jobs open in New Mexico at some mine, and they were well-paying jobs; I think, in some instances, paying more than union——

A lot of guys said, "No, we don't want to move to New Mexico." You can't force them to move. I understand that, but there were jobs there, well-paying jobs; but they didn't want to move.

But when you close an iron mine, we are not a big mining State. I mean there isn't a lot of related work of that type to pick up the slack in Missouri. It is not that big in mining.

Here were known identifiable jobs, and, you know, I am not griping the guy doesn't want to move, but I am just saying that this placement of the person, and the job, and the location is all very touchy stuff.

Take training you say you are doing down at, or that is being done in connection with the TVA, Tennessee, and all that stuff—where do you set up your job training setup? Do you go to the large metropolitan area? Do you go to Memphis? Or where do you want to see that these job training programs are conducted?

Mr. GODWIN. Well, we have used, thus far, two different kinds of training sites.

In one instance, we used the facilities of a community based organization called "Federation of Southern Cooperatives." And we conducted training under conditions that were roughly similar to what the participants would be doing when they went to work on the waterway. We had land clearing, and so forth.

And the other instance, we used land owned by and adjacent to the local community college.

The Corps of Engineers is making other land available, and they are in discussion now with TVA about the construction of a training facility that can, at a later point, be converted to a recreational facility.

Senator EAGLETON. Who is going to actually do the training there? Is it going to be a private contractor? Or is it going to be a Government-run training program?

Mr. GODWIN. Training will be financed by the Department; in most instances, it will be administered by international labor unions.

Senator EAGLETON. The crafts?

Mr. GODWIN. Yes.

Senator EAGLETON. Thank you.

SUBMITTED QUESTIONS AND PREPARED STATEMENT

We have got some additional questions we will submit to you in writing, and get them back to us. Also, we will put your complete prepared statement in the record.

Mr. GREEN. Fine. Thank you very much.

[CLERK'S NOTE.—The justification material for this account appears in the House fiscal year 1979 Labor-HEW Appropriations Subcommittee hearing record.]

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

Questions Submitted by Senator Eagleton

NATIONAL MIGRANT/FARMWORKER PROGRAM

Question: What is your assessment of the impact of federally funded employment and training programs designed to improve the living and working conditions of migrant and other seasonal farmworkers?

Answer: Title III, section 303 of the Comprehensive Employment and Training Act is designed to provide services to both farmworkers who wish to find employment alternatives to agricultural labor and farmworkers who wish to remain in agriculture labor. Because of this dual purpose of section 303, the impact on the living and working conditions of migrants and other seasonal farmworkers has been positive. For example, in Program Year 1976 (January - December), the section 303 grantees provided services to 245,000 farmworkers and their dependents. Over 26,600 participated in classroom training, on-the-job training, and work experience while 218,400 were provided such supportive services as health, medical, nutritional and child-care. Over 16,000 entered employment outside of agriculture in a wide variety of jobs such as factory and construction workers, clerical and technical positions. Tabulations for Program Year 1977 are not complete; however, preliminary reports indicate that the success of Program Year 1976 will be exceeded.

Question: Do you feel that controls to assure the eligibility of participants need strengthening?

Answer: No. Serving ineligible participants has not been a major problem. The Department conducts periodic on-site monitoring of farmworker programs. These on-site monitoring visits reveal that a few programs may be serving ineligibles. In those instances, corrective action plans are developed jointly between the grantee and the Department. The Department monitors for corrective action compliance and any additional action, where necessary, is taken.

Question: What kinds of jobs are farmworkers able to obtain as a result of their federally supported training?

Answer: Federally supported training is determined locally based on skill shortages, and on the applicant's needs, desires and abilities. Jobs most often resulting from federally supported training include mechanics, machine operators, x-ray assistants, clerical, licensed practical nurses, welders, construction and factory workers.

Question: How effective are support services provided to farmworkers who choose to remain in agricultural employment?

Answer: The provision of limited supportive services has proven most effective in improving the living conditions of migrant and seasonal farmworker families who wish to remain in agricultural employment. A variety of supportive services are provided to migrant and seasonal farmworkers and their dependents and may include, but are not limited to, health care, nutritional assistance, legal aid, relocation assistance, emergency assistance, childcare, transportation, referral, housing and education. Self-help housing programs are designed to aid the individual to secure a loan, build his own house and assume the complete responsibility for it; health care programs are designed to help the individual improve his general health by

visiting clinics to take care of medical problems which may have existed for years without attention because of the lack of money; emergency and nutritional assistance are services designed to enable the individual to get through a difficult period. These services are available so that farmworker families may become more productive in the seasonal farmworker labor market. We assure effectiveness of these services by insuring that program performance standards are met and cost limitations for specific activities are adhered to in accordance with federal regulations governing title III, section 303.

Question: What percent of federal assistance is used to finance migrant grantees' administrative costs?

Answer: The administration costs of the farmworker programs are limited by regulations to those necessary to operate the program effectively and are not to exceed 20 percent of the total planned costs for the entire grant unless such additional costs have been approved in writing by the Secretary. For Program Year 1977, the administrative costs of the farmworker programs were within the 20 percent requirement.

Question: In view of the multitude of federal programs providing assistance to farmworkers, what are you doing to avoid fragmentation and duplication to assure effective utilization of federal funds?

Answer: The Department has regular contact with other agencies which sponsor activities for farmworkers such as the Community Services Administration, the Department of Health, Education, and Welfare, and the Department of Agriculture. These contacts reduce duplication and enhance the individual activities of each agency to meet the needs of farmworkers better. For example, the Department of Health, Education, and Welfare reviews all proposals submitted for migrant/farmworker funds. Program activities, basic education and vocational training require joint approval of both the Health, Education, and Welfare, and Labor Departments. The Department of Health, Education, and Welfare also provides advice on available health and medical programs as well as how the grantee's own health and medical activities can be improved and coordinated with existing services. This information is used during grant negotiations to eliminate duplication of services and, if necessary, redirect the emphasis of grantee services. The Office of Farmworker Programs is currently funding pilot programs with the goal of demonstrating how services to farmworkers can be coordinated with a reduction in duplication among migrant/farmworker sponsors, title I sponsors and the United States Employment Services within States. These projects are being conducted in California, Texas, Florida, and New York. The results have been encouraging.

JOB VACANCIES DURING HIGH UNEMPLOYMENT

Question: Even during times of high unemployment, there are a substantial number of of available jobs in the market place. Doesn't this raise a question about the effectiveness of the Employment Services' interstate and intrastate communication links between employers and job seekers?

Answer: The Public Employment Service System has long recognized that job opportunities continue to exist even during periods of high

unemployment. Although such opportunities are most apparent in areas least affected by a recessionary period, the Employment Service has also found that jobs are available even in areas showing the greatest effects of a declining economy.

By intensifying contacts with the employer community and by redirecting these efforts toward employers least affected by adverse economic conditions on the basis of economic data and knowledge of the workforce and industry, the Employment Service has been able to recapture and even increase job opportunities for its applicants during periods of high unemployment.

There can be no doubt that a more effective labor clearance system, both intrastate and interstate, would contribute to an increased capacity of the Employment Service to shift unemployed workers to jobs existing in other areas. The Employment Service is working toward this objective, through the use of computerized systems. When the system is operable on a national level, job search and interstate and intrastate clearance on a national scale in a matter of a few hours or even minutes, depending upon the sophistication of the equipment employed, will be possible for unemployed workers.

Question: Do you think additional incentives might be needed to encourage persons to relocate?

Answer: The Department is currently funding a demonstration project which provides several kinds of job relocation assistance to job-ready Employment Service applicants who are unable to find employment in their home areas and who are interested in relocating to find employment. Initial results have been favorable and the project has already demonstrated its operational feasibility.

EMPLOYMENT SERVICE PRODUCTIVITY

Question: Have you found evidence that would concur with testimony presented to this committee last year by the Interstate Conference of Employment Security Agencies that greater productivity would result if there were five or six Employment Service staff people per 10,000 population compared to the current level of only three?

Answer: There has been limited research conducted with respect to Employment Service productivity in terms of the number of staff to 10,000 civilian labor force. The most productive States in terms of placements in jobs had a higher ratio of staff to labor force. The least productive States generally had lower ratios. The optimum staffing range appears to be 5.7 staff to 10,000 civilian labor force.

Although the evidence to date is rather limited and by no means definitive, a simple ranking of the top ten States in placement productivity followed by the next ten and so forth reflects the following results for fiscal year 1977:

States Ranked By Productivity	Placement Transactions Per Staffyear	Average Staff Per 10,000 in Civilian Labor Force
1-10	315	4.73
11-20	264	3.26
21-30	223	2.70
31-40	205	2.56
41-50	180	1.92
National Average	225	2.52

Presently, the Department is conducting added research to determine, to the extent possible, the influence of staff per civilian labor force on Employment Service staff productivity. Other factors which also may affect productivity include management, unemployment rate, and the characteristics of the labor force.

VETERANS

Question: What success are you having in placing veterans, especially the handicapped veterans, in jobs through the State Employment Service?

Answer: In fiscal year 1977 the State Employment System showed large increases in services to veterans. Although the number of veterans applying for service remained at about the same level as last year, 644,000 veterans were placed in jobs, an increase of 22 percent over fiscal year 1976. An equally large gain was posted for disabled veterans: 37,000 disabled veterans were placed, a 22 percent increase over fiscal year 1976.

Question: What percentage of job applicants who are veterans are actually interviewed by the Veterans' Employment representative specialist?

Answer: For those local offices that have designated local veterans employment representatives, the veterans representative is assigned functional responsibility over all services provided to veterans. Data is not kept on the proportion of veteran applicants handled directly by local veterans employment representatives. In large part, this will depend on office size and, in particular, the extent of the veteran applicant traffic. In smaller offices, the local veterans employment representatives generally would handle directly the provision of service for all veterans. In larger offices the direct provision of services to veterans is generally shared between the local veterans employment representatives and other staff. However, it is the responsibility of the local veterans employment representatives to ensure that all veterans receive adequate services.

Question: How many veterans are being placed in private jobs, and how many larger employers are working with you?

Answer: Approximately 550,000 veterans were placed in private sector jobs in fiscal year 1977. Also approximately one million nonagricultural employers of all sizes requested service from the State Employment Services. The Employment Security Automated Reporting System does not provide a size breakout for these employers.

Question: What are you doing to improve employment to older veterans, which last year's public testimony indicated had the lowest percentage of placement rate?

Answer: The number of older veterans, aged 45 and over placed into jobs in fiscal year 1977 increased 18 percent over their fiscal year 1976 level. While specific programs have not been targeted at the older veteran applicant, this group of veterans has benefited from programs included in the President's Economic Stimulus Program for

which the Employment Service has had a major role in recruitment, selection, and the referral of veteran applicants to job opportunities. In addition, the Employment Service has developed Veteran Indicators of Compliance which will be effective in fiscal year 1978. These indicators require minimum levels and preferential levels of service provision to veterans.

Question: The Employment Service has been locked in for 12 years at 30,000 positions nationally despite an increase in the labor force of 25 percent over the same period of time. Productivity and cost effectiveness has increased in the placement process as well as the quality of placements, for the past several years. With the new thrust to coordinate services with prime sponsors in both welfare reform and CETA seasonal farmworkers, efforts to broaden and expand the Job Service Improvement Program through the establishment of additional local employer councils, in addition to carrying on and improving regular labor market exchange activities, do you feel the Employment Service budget is adequate to fulfill these additional responsibilities?

Answer: Research is presently being conducted to determine the net impact of the Employment Service system. Until it can be stated with a degree of certainty what the net impact of the Employment Service system is, the Department is not in a position to definitively state the need for additional increases of staff from a cost-benefit standpoint.

While it is true that through the years the Employment Service has been assigned specific responsibilities through legislation other than Wagner-Peyser, accommodating these added responsibilities have been through internal management actions. For instance, through program planning and resource allocation systems functional activities have been prioritized and staff reassigned from areas of work with relatively less significance to other areas in order to carry out added legislated responsibilities.

In summary, while it would appear that additional staff may be warranted, until on-going research is completed, the extent of additional staffing needs and the benefits to be derived from added staff will not be known precisely.

Question: Forty percent of Employment Service placements last year were with youth and thirty percent with minorities. Funds are not now fully available to provide occupational guidance, counseling and career development to these groups more acutely in need of job assistance. Again do you feel adequate funds are available to expand these much needed services?

Answer: The best service the Employment Service can provide youth and minorities is jobs. Increased staff efforts resulted in a 31 percent increase in the number of youth placed last year and an increase of 29 percent in the number of minorities placed. Most of these were in private sector jobs. In the absence of private sector jobs, Public Service Employment and summer jobs provide significant benefits. Employment Service staff are working with CETA prime sponsors to place youth and minorities in subsidized jobs whenever they are available.

Occupational guidance and counseling for new and renewed labor market entrants are, of course, necessary. Counseling for both

youth and minorities increased in fiscal year 1977 by 5.5 percent and 5.0 percent respectively.

Obviously additional resources for occupational guidance would increase those specific services for these two groups. However, if there was a choice between added resources for direct placement services for youth and minorities or for occupational guidance and counseling, the choice would be for the former.

UNEMPLOYMENT TRUST FUND

Question: Will the Unemployment Trust Fund be able to handle the financial burden caused by the substantial period of high unemployment recently experienced?

Answer: The Unemployment Trust Fund has required advances from general revenues to finance the costs of the current recession. The advances to the Unemployment Trust Fund and Other Funds appropriation has sufficient funds to provide any advances needed in fiscal year 1978. No advances are anticipated to be needed in fiscal year 1979.

STATE BORROWING

Question: Will the States who borrowed several billions from the trust fund be able to repay the loans?

Answer: The ability to repay varies from State to State. Current analysis by the Unemployment Insurance Service using fiscal year 1979 budget assumptions indicates that all but two borrowing States should generate enough revenue to meet current outlays by 1980. By fiscal year 1981, most of the borrowing States will generate an excess that is equivalent to or exceeds the current outstanding loans.

Question: What is the total amount of borrowing by State?

Answer: The total amount borrowed by the States from the Federal Unemployment Account if $5.029 billion. This includes loans approved for the month of February 1978. Eight States have repaid $158.8 millions. The States and amounts are as follows:

Connecticut	$66.2 million
Washington	12.3
Vermont	1.4
Rhode Island	3.7
District of Columbia	12.8
Oregon	18.5
Maryland	1.9
Florida	42.0

The balance of loans remaining unpaid as of February 1, 1978, is $4.870 billion as follows:

Connecticut	$416.8 million
Washington	137.1
Vermont	46.4
New Jersey	638.9
Rhode Island	79.1
Massachusetts	265.0

Michigan	$624.0
Puerto Rico	81.2
Minnesota	172.0
Maine	32.9
Pennsylvania	1,042.2
Delaware	40.0
District of Columbia	64.4
Alabama	43.9
Illinois	828.6
Arkansas	30.0
Hawaii	22.5
Nevada	7.6
Maryland	62.6
Montana	9.3
New York	225.8
	$4,870.3 million

Question: With the current poor financial condition of most States' Trust Funds, do you see a need for the improvement of identifying taxes due and collecting delinquent taxes?

Answer: There is a relationship between the identification of delinquent employers and the collection of delinquent taxes to the poor condition of several States' Trust funds. The Department does not feel that this a strong one, however. The main factors contributing to the poor condition of State's Trust funds were an extremely high rate of unemployment which was not forecast or considered at the time the States were determining employer condition rates and fund level standards based on previous unemployment levels. After the load hit it was too late for them to adjust to the heavy payment workload.

The Department is constantly striving to assist States in improving their performance in the identification of delinquent employers and collection of taxes which will improve the solvency of States' Trust funds. Tools to accomplish these factors are being made available to State employment security agencies in the form of an automated exportable employer tax accounting system, development of an automated system for the selection of employers for audit, revitalization of the field audit program nationwide, and preparation of a new field audit policy which sets forth new guidelines for audits, selection, staff utilization and control, and performance measurement.

WORK TEST RULE FOR UNEMPLOYMENT BENEFITS

Question: How adequately are the States enforcing the "work test" rule which says that claimants must be available and seeking suitable employment in order to continue receiving benefits?

Answer: Over the past year, State agencies have shown a substantial increase in the detection of potential availability and work search issues. The detection of potential issues increased by 40 percent between fiscal years 1976 and 1977. In addition, statistics as to the number of individuals denied benefits due to unavailability shows an increase of 25 percent. The unemployment insurance system at the national, regional and State levels has had as a major priority the reinstitution of sound eligibility review techniques.

The above statistics indicate that State agencies have made much progress in detecting eligibility issues this past year. It should be noted that although progress has been made in implementing eligibility techniques, continued emphasis will be placed in fiscal years 1978 and 1979 on improved eligibility review.

CONTROL UNEMPLOYMENT INSURANCE FRAUD AND ABUSE

Question: How successful have you been in controlling fraud and misrepresentation by UI claimants?

Answer: From fiscal year 1975 through fiscal year 1977, fraud detection increased by 50 percent; prosecutions increased by 20 percent; total overpayments, both fraud and non-fraud, increased by 117 percent and dollar recoveries have increased by 60 percent. These statistics definitely indicate that State Employment Security agencies have been placing emphasis in the area of fraud and overpayment. The only activity which has shown decrease in the past 2 years is the number of fraud convictions. Although the above statistics are an indication of the State agencies' efforts in detecting, prosecuting and collecting fraud and non-fraud overpayments, they do not indicate the degree of success with respect to controlling or preventing fraud and misrepresentation by unemployment insurance claimants. One major effort which is being made during fiscal year 1978 to control and prevent fraud is a joint Department of Labor and Department of Justice effort to mount a fraud/prosecution campaign in selected cities which will include widespread publication of cases prosecuted. In addition it should be noted that through the States' efforts in the area of eligibility review, it is felt that by detecting potential eligibility issues in an individual's claims series the amount of overpayments will be significantly reduced.

Question: How many State agencies staff are budgeted for fraud and abuse activities in fiscal year 1979 compared to 1978?

Answer: In fiscal year 1979, 1,945 are budgeted for benefit payment control activities compared with 1,912 staff years in 1978.

Question: What procedures has the Department established to insure communication between prime sponsors and State Employment Security Agencies to prevent an individual from receiving unemployment insurance while enrolled in Employment and Training programs?

Answer: The CETA regulations and guidelines provide for the establishment of a procedure for verification of possible receipt of unemployment insurance benefits by CETA participants receiving training allowances and wages. Regulations at § 95.34(a)(5) require prime sponsors to make arrangements with the State Employment Security Agencies to develop a procedure for obtaining information concerning the receipt and verification of unemployment benefits by participants receiving training allowances. Under CETA, the basic allowance must be reduced, on a weekly basis, by the amount of unemployment benefits, if any, received by participants. The current Guide for Prime Sponsors-Payment of Training Allowance and Expenses proposes that initial verification regarding receipt of unemployment benefits be made for all participants. Further verification is not

necessary during the enrollment of the participants unless a change in unemployment benefit status is indicated on a subsequent training allowance payment request form.

Regulations at § 98.7(b) require prime sponsors, upon request, to provide the State Employment Security Agencies a current list of all participants enrolled in their programs receiving wages in order to avoid duplication of payments by unemployment insurance and CETA programs. Prior to the change in § 98.7(b), General Administrative Letter 1-75 required prime sponsors, effective February 1, 1975, to send each month to the central office of the State Employment Security Agencies, a list of new hires and all terminations of individuals in CETA jobs where wages are paid.

The Department is presently engaged in a study to ascertain whether the procedures developed by prime sponsors and State Employment Security Agencies to implement these regulations are effective in minimizing unauthorized CETA and unemployment insurance payments.

COST OF EMPLOYMENT SECURITY AUTOMATION

Question: How much is in the budget for implementation of computerized job matching systems?

Answer: There is $19.8 million in the budget for implementation of computerized job matching systems in 1979.

Question: How much is in the budget for automation of unemployment benefit payments and tax collections?

Answer: There is $15.8 million in the budget for automation of unemployment benefit payments and tax collections in 1979.

Question: What is the estimated cost to complete implementation of your Employment Security Automation Plan over the next five years, and how much has been spent so far?

Answer: Over the next five years, fiscal year 1979 through fiscal year 1983, the cost to complete the implementation of the Employment Security Automation Plan is estimated to be about $180 million. By the end of fiscal year 1978, $67.8 million is expected to be obligated for this program.

Question: When will we begin to see the payoff from employment security automation in terms of reduced staffing needs?

Answer: Staff reductions have already been achieved in the four pilot States for unemployment insurance on-line benefits and automated tax systems. Reductions in budget allocations to recover funds allocated under the Employment Security Automation Plan were made in six States in fiscal year 1977 and in ten additional States in fiscal year 1978. Further staffing reductions are anticipated as more States become operational under the Employment Security Automation Plan.

PREPARED STATEMENT OF ERNEST G. GREEN

Assistant Secretary for Employment and Training

Mr. Chairman and Members of the Committee, I appreciate the opportunity to appear before you today to present the remaining budget requests for the Employment and Training Administration. These requests total $3,142,682,000 for Fiscal Year 1979. I would like to discuss briefly each of these requests.

Jobs For the Elderly

One of our basic concerns is employment opportunities for the elderly. The Community Service Employment for Older Americans appropriation provides part-time job opportunities in community service activities for unemployed low-income persons aged 55 and over.

This program provides advance funding and is currently funded through June 30, 1979. The 1979 request will fund the program through June 30, 1980. The funding authorization expires at the end of this fiscal year, and new authorizing legislation will be proposed.

The request for Fiscal Year 1979 totals $228,450,000, which is an increase of $8,050,000 over the revised 1978 request of $220,400,000. The revised 1978 estimate reflects a proposed supplemental totaling $30,000,000. The supplemental and the 1979 increase of $8,050,000 reflect the impact of the minimum wage increases on the program.

Approximately 37,400 job opportunities for the elderly will be provided through June 1978. Beginning July 1, 1978, 47,500 job opportunities will be provided.

Grants to States

The 1979 budget request for Grants to States for Unemployment Insurance and Employment Services provides an availability of $1,705,200,000, which is an increase of $122,600,000 over the 1978 availability of $1,582,600,000. These funds finance the administrative costs of Unemployment Insurance and Employment Service activities in the State Employment Security agencies.

Changes for Fiscal Year 1979 total $122,600,000, and include $85,100,000 for increases in salary and personnel benefit costs resulting from Statewide compensation plan changes; $15,400,000 for increased costs of nonpersonal

services; $11,845,000 to provide a net increase in contingency requirements; $9,700,000 to provide for an increase in funding for the Employment Security Automation Plan; and $555,000 to provide for continued maintenance of the Continuous Wage and Benefit History Program.

This request reflects the continuing efforts of the State agencies to improve their methods of operation in order to increase the quality of their employment security programs and to provide better services to the Nation's jobseekers. Improvements are also expected to be brought about by automation and management actions. Automation in the unemployment insurance tax and benefit functions will ensure the prompt collection of taxes and more timely payments of unemployment compensation benefits, enabling more attention to be devoted to quality control. Automation of job matching functions will eventually assist the employment service in improving the quality and quantity of placements nationwide. Operating in an improving economic climate, the States' efforts to improve services should be met with significant success.

Federal Unemployment Benefits and Allowances

This account finances unemployment compensation to former Federal personnel and trade adjustment assistance allowances to individuals adversely affected by foreign trade agreements. It also provides for reimbursements to States for unemployment benefits paid on the basis of public service employment and for unemployment benefits paid during a transitional period to workers newly covered under the provisions of the Unemployment Compensation Amendments of 1976.

The budget request provides an availability of $990,000,000, which is a decrease of $260,000,000 from the revised 1978 availability of $1,250,000,000. The $990,000,000 includes a $40,000,000 anticipated reimbursement from the U.S. Postal Service for unemployment compensation paid to former postal workers.

The changes for 1979 reflect an increase in the average weekly benefit amounts expected to be paid in 1979, offset by decreases due to assumed lower levels of unemployment and the expiration of temporary unemployment compensation programs.

National Employment and Training Programs

This activity provides additional employment and training assistance to special segments of the population which have particular disadvantages in the labor market. Among groups served are Indians and other native Americans, migrants and seasonal farmworkers, criminal offenders, and people of limited English-speaking ability. The activity also provides for training and technical assistance, labor market information, research, development, and evaluation.

These activities are authorized under Title III of the Comprehensive Employment and Training Act, as amended. Since the funding authorization in that act expires for these programs at the end of this fiscal year, the Administration will be submitting a legislative proposal to the Congress shortly.

Funds are directed to special segments of the population through grants and contractual agreements with industrial, educational and State organizations to provide employment and training services.

The 1979 budget request for these activities totals $259,032,000 and represents a net decrease of $59,038,000 from the revised 1978 estimate of $318,070,000. The revised 1978 request reflects a proposed supplemental totaling $5,140,000, which represents the impact of the minimum wage increase on the migrants and seasonal farmworkers and Indians and other native Americans programs.

The net decrease of $59,038,000 reflected for 1979 represents the elimination of new funding requests for certain economic stimulus activities totaling $64,500,000, a comparative transfer totaling $1,500,000, and an increase for minimum wage and other salary and benefit costs totaling $6,962,000.

The economic stimulus programs for which no new funding is being requested include $37,000,000 for migrants and Indian initiatives, $20,000,000 for the Help through Industry Retraining and Employment program, $5,000,000 for the Disabled Veterans Outreach program, and $2,500,000 for economic stimulus program evaluation.

Of the 2,000 Disabled Veteran Outreach positions funded in 1977 and 1978, it is anticipated that, in Fiscal Year 1979, State agencies will be able to absorb 500 of these veterans into regular employment service

activities, largely through attrition. The remaining 1,500 Disabled Veteran Outreach positions will be funded from CETA Title I discretionary funds.

Funding for the migrant and seasonal farmworkers and Indian and other Native American programs will continue to be linked to the statutory formulae embodied in the substantive legislation. Increases for 1979, totaling $5,422,000, reflect the impact of the minimum wage legislation.

The program support items for technical assistance and training and research and demonstration activities remain unchanged from the 1978 request. However, we have reflected a decrease of $2,500,000 in evaluation activities as indicated earlier, and an increase in Labor Market Information activities totaling $1,540,000 to provide necessary State salary and benefit cost increases.

Other national training programs are expected to continue at the same level, although the request reflects a comparative transfer of $1,500,000 to the Departmental Management account for research activities. Any additional resources required for funding these activities will be made available from Title I discretionary resources.

This concludes my statement Mr. Chairman. I will be happy to answer any questions you, or Members of the Committee, may have.

BIOGRAPHICAL SKETCH

Mr. Green was confirmed as Assistant Secretary of Labor for Employment and Training by the Senate on March 10, 1977. From 1967 until his confirmation, he had been executive director of the Recruitment and Training Program (R-T-P, Inc.), formerly the Joint Apprenticeship Program of the Workers Defense League/A. Philip Randolph Educational Fund, New York City, an organization which recruits minorities for apprenticeship programs. He began with the program in 1964 as a field representative, attempting to place black and Puerto Rican young men into the New York City building and construction trade unions as apprentices. Under his leadership as executive director, the program expanded beyond apprentice training and became actively involved in journeymen upgrading and training. It was also one of the first organizations in the country to develop construction skills training for Model Cities residents.

Born on September 22, 1941, Mr. Green is a native of Little Rock, Arkansas. He was the first black to be graduated from Central High School in Little Rock. He received a Bachelor of Arts degree from Michigan State in 1962 and a Master of Arts degree from the same school in 1964.

Mr. Green has received the J.D. Rockefeller Outstanding Public Service Award, the A. Philip Randolph Award of the Negro Trade Union Leadership Council, and the Freedom in America Award of the Workers Defense League. He has also received awards or citations from the U.S. Department of Labor's Bureau of Apprenticeship and Training, the American Federation of Teachers, the Elks, Ebony Magazine, and the New York Post.

SUBCOMMITTEE RECESS

Senator EAGLETON. The subcommittee will be in recess, to reconvene at 2 p.m. tomorrow afternoon.

[Whereupon, at 4:35 p.m., Tuesday, January 31, the subcommittee was recessed, to reconvene at 2 p.m., Wednesday, February 1.]

DEPARTMENTS OF LABOR AND HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1979

WEDNESDAY, FEBRUARY 1, 1978

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 2 p.m. in room 1223, Everett McKinley Dirksen Office Building, Hon. Thomas F. Eagleton presiding.

Present: Senator Eagleton.

DEPARTMENT OF LABOR

LABOR-MANAGEMENT SERVICES ADMINISTRATION

STATEMENT OF FRANCIS X. BURKHARDT, ASSISTANT SECRETARY FOR LABOR-MANAGEMENT RELATIONS

ACCOMPANIED BY:

JOSEPH R. BEEVER, DIRECTOR, OFFICE OF VETERANS' REEMPLOYMENT RIGHTS
BEATRICE M. BURGOON, DIRECTOR, OFFICE OF LABOR-MANAGEMENT RELATIONS SERVICES
AUGUST F. CANTFIL, DIRECTOR, OFFICE OF LABOR-MANAGEMENT POLICY DEVELOPMENT
CHARLES G. GEORGE, DIRECTOR, OFFICE OF ADMINISTRATION AND MANAGEMENT
ERNEST J. GERMAN, DIRECTOR, OFFICE OF PLANNING, EVALUATION AND SYSTEMS
IAN D. LANOFF, ADMINISTRATOR, PENSION AND WELFARE BENEFITS PROGRAM
CARL H. ROLNICK, DIRECTOR, OFFICE OF LABOR-MANAGEMENT STANDARDS ENFORCEMENT
RONALD M. VAN HELDEN, SPECIAL ASSISTANT TO THE ASSISTANT SECRETARY
LOUIS S. WALLERSTEIN, DIRECTOR, OFFICE OF FEDERAL LABOR-MANAGEMENT RELATIONS
JACK A. WARSHAW, DEPUTY ASSISTANT SECRETARY FOR LABOR-MANAGEMENT RELATIONS
WILLIAM R. REISE, COMPTROLLER FOR THE DEPARTMENT
CHARLES E. PUGH, DIRECTOR, OFFICE OF BUDGET

OPENING REMARKS

Senator EAGLETON. The subcommittee will come to order.

We will begin with testimony on budget requests for the Labor-Management Services Administration and the Pension Benefit Guaranty Corporation. Both of these organizations have responsibility for administering portions of the pension reform Employee Income Security Act.

In addition to its $59,954,000 fiscal year 1979 request, the Labor-Management Services Administration is requesting a $956,000 fiscal year 1978 supplemental to improve industrial relations within the private sector.

The Pension Benefit Guaranty Corporation's fiscal year 1979 budget totals $69,410,000.

PREPARED STATEMENT

First, we will hear from Francis Burkhardt, Assistant Secretary for Labor-Management Relations, to be followed immediately by Matthew Lind, Executive Director of the Pension Benefit Guaranty Corporation. Mr Burkhardt, we will insert your prepared statement in the record at this point.

[The statement follows:]

Prepared Statement of Francis X. Burkhardt

Mr. Chairman and Members of the Subcommittee, it is a pleasure for me to be here today to present the fiscal year 1978 Supplemental and fiscal year 1979 budget requests for the Labor-Management Services Administration.

First, I will discuss our FY 1978 supplemental. We are requesting 28 positions and $956,000. All of the positions and $311,000 of the dollar amount are budgeted for a new initiative to improve industrial relations within the private sector.

Under this program, LMSA would assume a leadership role in the formulation of tripartite committees relating to specific industries. These Committees would be comprised of representatives of labor, management and government working together to promote the stability, and economic recovery of the construction industry through better utilization of resources, and to assist other major industries in resolving serious problems impacting on labor-management relations.

The primary emphasis in FY 1978 will be in the construction industry, particularly in Chicago, San Francisco and Kansas City. Studies show that the construction unemployment rate typically runs twice the national average and that the inefficient use of manpower has cost the industry an average of about 10,000 staff-years annually during the past 25 years. By developing and using a data base of the economic variables affecting the industry and carefully coordinating the timing of commitment of public funds for construction projects, these Committees can materially improve economic conditions in the construction industry.

We also intend to form tripartite committees at the national level to aid other key industries in resolving issues affecting their labor relations. The air transportation industry committee will be formed first with other industries to follow as conditions warrant.

The remaining $645,000 is requested to cover the extraordinary costs of special union election investigations and reruns. This would increase the contingency fund from $355,000 to $1.0 million. The increase is necessary to enable us to keep pace with rising costs and a larger workload. For example, in 1977 the investigation of the election of the United Steelworkers of America cost over $750,000. In 1978, we anticipate at least four election reruns at an estimated cost of $948,000.

Moving to our fiscal year 1979 budget, we are requesting a total of 1,598 positions and $59,954,000. This represents a net increase of $1,650,000 and 11 fewer positions than our FY 1978 level.

Briefly, our FY 1979 budget plans call for:

-- Maintaining our employee protections, industrial relations, and labor-management research programs at the current level;

-- Refining and improving our techniques for promoting economic stability and labor relations harmony in key industries;

-- Strengthening our enforcement of the Labor-Management Reporting and Disclosure Act by using resources reprogrammed from the organized crime program to do more investigations and financial audits;

-- Reducing staff in our Veterans' Reemployment Rights program by 11 positions in anticipation of a decline in workload; and

-- Processing an increasing number of Federal labor-management cases without additional staff.

Because of Congressional interest and the importance of our Pension and Welfare Benefits Program, I would like to expand a bit on our accomplishments and plans in this area.

In fiscal years 1977 and 1978, we continued the investigations of the Teamsters Central States, Southeast, and Southwest Areas Pension Fund and the related Health and Welfare Fund. These investigations resulted in the removal of the previous trustees and the placement of the assets of the fund under the supervision of a qualified investment advisor. Other activities in the pension program area included the receipt and disclosure of annual pension plans, financial reports, the issuance of several important regulations, and continued emphasis on the public information program. An enforcement strategy has been developed and will be implemented to provide better direction for the field compliance program.

In fiscal year 1979, the major thrust in the pension program will be to improve the quality of the enforcement program. The use of temporary part-time employees to handle inquiries and provide technical assistance will allow compliance officers to devote more time to increasingly complex cases and on-site audits. Other aspects of the program will be to continue progress towards full implementation of the Pension Reform Act. A joint agreement with the Internal Revenue Service concerning the single filing of annual reports will also be fully implemented.

Mr. Chairman, that concludes my statement. My colleagues and I will be glad to answer any questions you may have.

Biographical Sketch

Francis X. Burkhardt was nominated by President Carter as Assistant Secretary of Labor for Labor-Management Relations on March 11, and sworn into the position on March 23, 1977.

In June of 1977, Burkhardt was elected chairman of the Working Party on Industrial Relations for the Organization of Economic Cooperation and Development (OECD) at their annual meeting in Paris,

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France. Burkhardt also has been named vice chairperson of the Secretary's Committee on the Construction Industry.

Prior to his present appointment, Mr. Burkhardt served from 1970 as research director of the International Brotherhood of Painters and Allied Trades, AFL-CIO. He was an assistant to the director of the Department of Legislation, AFL-CIO during 1969.

A native of Philadelphia, Pennsylvania, Mr. Burkhardt, born in 1944 holds a B.S. degree from Temple University (1966) and studied graduate economics for three years at the University of Maryland.

When named to his present position, Mr. Burkhardt was president of the Washington, D.C. Chapter of the Industrial Relations Research Assosciation and Secretary of the National Joint Safety and Health Committee in the Painting Industry. He also holds membership in the National Economists Club, Society for Occupational and Environmental Health, and the American Academy of Political and Social Science.

Mr. Burkhardt and his wife, the former Dolores McCormick, and their two children, Stacy and Francis, live in Upper Marlboro, Maryland.

Senator EAGLETON. I welcome you gentlemen.

Mr. Secretary, how are you?

Start off, whoever the first witness is.

Mr. BURKHARDT. My name is Frank Burkhardt and I am Assistant Secretary of Labor for Labor-Management Relations.

FISCAL YEAR 1978 SUPPLEMENTAL AND 1979 BUDGET REQUEST

Today I am here to talk about the fiscal year 1978 supplemental and 1979 budget requests for the Labor-Management Services Administration.

First on the 1978 supplemental, we are requesting 28 positions and a total of $956,000. All of these 28 positions plus $311,000 of the dollar amount are budgeted for new initiatives to improve industrial relations within the private sector.

Under this program, LMSA would assume a leadership role in the formation of tripartite committees relating to specific industries.

These committees would be comprised of representatives of labor, management, and Government working together to promote the stability and economic recovery of the construction industry through better utilization of resources, and to assist other major industries in resolving serious problems impacting on labor-management relations; but generally outside the scope of collective bargaining.

The primary emphasis in fiscal year 1978 will be in the construction industry, particularly in Chicago, San Francisco, and Kansas City.

Senator EAGLETON. That catches my attention obviously.

Why do you pick those cities?

Mr. BURKHARDT. Because of the interest shown on the part of both labor and management.

Chicago has a pilot program that has been going on approximately 4 years. Both San Francisco and Kansas City came to us and asked for a similar type program in their cities so they could better coordinate——

Senator EAGLETON. Do you spell that out just what this program is?

Mr. BURKHARDT. We have that spelled out in a supplemental budget on construction. That comes under our supplemental budget.

Senator EAGLETON. Let me ask you here, and then I probably won't interrupt again.

You say they came to you. Who is "they"?

Mr. BURKHARDT. The building trades president, Karl Rogers, came to us with a number of labor representatives. He also set up a meeting with some AGC construction people who came to us along with some of the other mechanical contracting firms.

Senator EAGLETON. What did they ask you to do and what did you do on a pilot basis?

Mr. BURKHARDT. They had heard about our program in Chicago.

Senator EAGLETON. See, I don't know anything about the program.

Mr. BURKHARDT. Right, since I came out of the construction industry, this is easy. In Chicago we have determined that the

Federal Government is one of the largest spenders of construction dollars anywhere in the country.

They spend much of this money in the wrong months of the year because of a lot of reasons such as the legislative process, the bidding procedure, and the way contracts are let.

What we found in Chicago was that their spending patterns oftentimes had nothing to do with the weather. In fact, we did an analysis of the weather forecast over a 25-year period.

We matched that up against construction and found there were a lot of idle craftsmen during most of the year when they could have been doing construction work.

The reason was the Federal Government, which spends right now between 40 and 50 percent of all construction dollars.

In Kansas City it is about a third.

Senator EAGLETON. A third in Kansas City.

Mr. BURKHARDT. In any case, we thought if we could bring together those agencies spending money in construction, get the people who are supplying the manpower, and the people who are bidding on the contracts in one room and talk about the problems they have, we might have a more rational way of allocating manpower.

The Government could save money, we would have fewer transfer payments in terms of unemployment and so forth and so on.

We demonstrated that in Chicago, and we are ready to do it in Kansas City, which will be the next city. San Francisco will follow shortly thereafter.

That is basically what the program does. But it gets into a number of the programs. There are a lot of reasons outside of seasonality that may impede the use of construction manpower.

GOVERNMENTAL AND ENVIRONMENTAL REGULATIONS

It could be Government regulations themselves. It could be certain environmental regulations, depending on who thinks they have jurisdiction. A number of times we found in Chicago that two different agencies had two interpretations of the same environmental regulations and that was holding up the contract on a construction program until the winter months.

Many of these things, like painting indoors in the summertime, are absurd, yet many government agencies do it. If we can get them all to realize how this allocation of resources is affecting the manpower in their area we can get a better product.

It affects collective bargaining in a different way. If a worker has to work 1,200 hours a year he still has to pay health and welfare costs over the whole time. So he negotiates an amount, maybe $1 an hour. If he can work 2,000 hours a year he can spread that over a 2,000-hour period.

It is the same thing with pensions, and the same thing with health and welfare and other fringe benefits, which are probably one of the larger items.

So it impacts upon economic stability as well as employment stability in an area. The Secretary has been promoting these kinds of programs in the construction industry, and we are going to move from the prototype in Chicago into these other two cities.

The other thing we are going to do is take a look at the model and see if it doesn't work in some other industries. We have had already one meeting in the airline industry.

We have had some preliminary talks with some coal people, of course they have certain collective bargaining problems now.

You have to remember that the kinds of issues with which we are concerned typically are the kind that labor and management can't settle at the bargaining table.

They can't negotiate over when the Federal Government spends money. They can't negotiate over the weather or environmental regulations.

The airline industry's, labor-management team can't negotiate over the impact of deregulation as such or any other similar type of thing.

But they can sit down together and work out a program when and if it becomes necessary. You can go down this whole list of items that are outside the scope of collective bargaining where the Government should be providing a stability role.

So we are moving as I said from construction into some other key industries. That is what the total supplemental is for, all 28 positions are for staffing these committees.

We already have four people in Chicago. We want to put three in Kansas City and three in San Francisco plus have some support staff so they have the data collection ability and information to make the kinds of recommendations that will even out the manpower flow.

That is pretty much our whole supplemental. That is really the area we are concentrating most on in terms of the 1978 supplemental.

We have one other area, also. That is the Landrum-Griffin Act. The remaining money, there are no positions, but some $645,000——

Senator EAGLETON. Where are we in your prepared statement?

SPECIAL ELECTION INVESTIGATIONS AND RERUNS

Mr. BURKHARDT. Page 2, second paragraph. The remaining $645,000 of the money we are requesting in the fiscal year 1978 supplemental is to cover the extraordinary costs of special union election investigations and reruns. This would increase the contingency fund from $355,000 to $1 million. The increase is necessary to enable us to keep pace with rising costs and a larger workload.

For example, in 1977, the investigation of the election of the steelworkers cost over $750,000, and that was only one election. In 1978, we anticipate at least four election reruns at an estimated cost of at least $948,000.

Senator EAGLETON. How do you estimate now? I guess there are going to be four election reruns. How are you sure——

Mr. BURKHARDT. No, there are going to be 70 major elections in 1978.

Senator EAGLETON. You think the law of averages are——

Mr. BURKHARDT. There are going to be four reruns. In fact, we already know the four we are going to have to rerun because they were elections that took place in 1977 that we have been investigating, and trying to settle out of court.

They are the Longshore in the gulf coast; the National Federation of Federal Employees, their whole national election has to be rerun. They have agreed, out of court, that we will rerun the election.

District 1 of the American Federation of Government Employees, and District 100 of the International Association of Machinists.

Three of those four, we're almost positive of rerunning. So, of that $948,000, we figure those four plus other additional costs of the other 70. We have 70 major elections coming up in 1978. Of those, we estimate some may have to be investigated or rerun.

Senator EAGLETON. How much did you have in this?

Mr. BURKHARDT. We only had $355,000 though we used that up in one rerun. That presents a problem for us because when we had to do the steelworkers election, for example, we had to use 250 investigators to get the election done within 60 days.

The law says you have to investigate these complaints within 60 days. To do that, we have to get a whole staff of people across the country looking into the charges; so we have a lot of overtime, and we usually have to use other agencies' staff.

In this particular case, we used the Employment Standard Administration, some of their wage-and-hour investigators as an adjunct to our own investigatory staff. We then have to replenish their overtime fund. That is what that contingency fund is for, to allow us to do that kind of thing.

Senator EAGLETON. The Secretary has more than one contingency fund. This is sort of an earmarked contingency fund for elections, I take it.

Mr. BURKHARDT. That is right.

Senator EAGLETON. As opposed to some other function.

Mr. BURKHARDT. That is correct. It can only be used for large election investigations or large supervised elections.

Senator EAGLETON. I will be back in a minute, folks. That is a 5-minute warning thing, and then we will proceed.

[Recess.]

Senator EAGLETON. OK. Mr. Burkhardt, let's move away from the supplemental, and we will take that as having been completed, and move into the fiscal year 1979 budget.

Mr. BURKHARDT. Fine. Well, I can quicken the pace by just saying in terms of 1979, we are actually asking for 11 fewer positions, so we are going to maintain everything that we have been doing with 11 fewer positions, some reprograming internally, and some shift in emphasis in terms of our enforcement strategy with regard to pensions.

Senator EAGLETON. You are going to end up with 12, did you say——

Mr. BURKHARDT. Eleven fewer positions.

Senator EAGLETON. Eleven fewer.

Let's hear the Pension Benefit Guaranty Corporation, and then we will maybe have a few questions.

PENSION BENEFIT GUARANTY CORPORATION

STATEMENT OF MATTHEW M. LIND, EXECUTIVE DIRECTOR

ACCOMPANIED BY:

HENRY ROSE, GENERAL COUNSEL
WILLIAM H. MOORE, ASSISTANT EXECUTIVE DIRECTOR FOR SPECIAL PROJECTS
CHARLES W. SNEARER, DIRECTOR, OFFICE OF MANAGEMENT SERVICES

PREPARED STATEMENT AND BIOGRAPHICAL SKETCHES

Mr. LIND. Mr. Chairman, my name is Matthew Lind. I am Executive Director of the Pension Benefit Guaranty Corporation.

I have an opening statement, but I prefer to put it in the record with your permission.

Senator EAGLETON. Sure.

[The statement and biographical sketches follow:]

Prepared Statement of Matthew M. Lind

Mr. Chairman, it is a pleasure to appear before this subcommittee to present the Fiscal Year 1979 budget plan of the Pension Benefit Guaranty Corporation.

The Pension Benefit Guaranty Corporation was established under the Employee Retirement Income Security Act of 1974 (the Pension Reform Act) as a self-financing, Government-owned corporation charged with guaranteeing the basic benefits of private, defined benefit pension plans. We receive no appropriations from Congress, our major source of revenue being the mandatory premiums collected from the approximately 80,000 pension plans covered by our program.

This budget plan consists of two activities: Activity 1 (administration) requiring $23,238,000 and 544 positions, and Activity 2 (benefit payments and annuity purchases) requiring $46,172,000.

I must point out that the financial condition of PBGC as presented in this budget plan could change drastically if potential liabilities associated with multiemployer plans are realized. During the past year, PBGC conducted a study of such plans which indicated that:

- about 2% are experiencing severe financial hardship, indicating a high potential for plan termination within 5 years. The aggregate unfunded liabilities of these plans in 1977 exceeded $350 million; and

- another 10% are experiencing significant financial hardship, which may result in termination though not necessarily within the next

five years. The aggregate unfunded liabilities of these plans in 1977 was about $3.5 billion.

- the statutory provisions concerning employer liability may impose heavy burdens on employers contributing to financially weak on-going plans. This may adversely affect the growth, continuance and new plan formation of covered multiemployer defined benefit plans.

A report of this study was provided to the Congress. Hearings were conducted on the matter and Public Law 95-214 was subsequently passed which deferred mandatory coverage of multiemployer plans from January 1, 1978 to July 1, 1979 while PBGC explores alternative approaches to existing ERISA program requirements. More specifically the new law requires PBGC to present a report to the Congress by July 1, 1978 which comprehensively addresses the anticipated financial condition of the program relating to mandatory coverage of multiemployer plans and includes an explanation of any alternative courses of action which might be taken by the Corporation to insure proper coverage of multiemployer plans and the proper financing of the program relating to such plans. This project is being given utmost priority within the Corporation.

That concludes my opening statement, Mr. Chairman. I would be happy to answer any questions you may have.

BIOGRAPHICAL SKETCH

MATTHEW M. LIND
Executive Director
Pension Benefit Guaranty Corporation

Mr. Lind was elected Executive Director of the Pension Benefit Guaranty Corporation by the Corporation's Board of Directors in November 1977, having served as Acting Executive Director since December 1976. He was the Director of PBGC's Office of Program Development from June 1975 until December 1976.

Prior to joining the Corporation, Mr. Lind was a Management Associate in the Human and Community Affairs Management Division of the Office of Management and Budget, where he was actively involved in the development of National Health Insurance legislation, the administrative feasibility analysis of an Income Maintenance Program, and the policy analysis and implementation for Pension Reform legislation. He also had lead Executive Office responsibility for overseeing the Presidential Objectives of the Department of Health, Education, and Welfare.

Prior to joining OMB, Mr. Lind worked for the Mitre Corporation for Urban Systems Research and Engineering, and for the Addressograph-Multigraph Corporation. While at Mitre, he was principally involved in systems analyses for the U. S. Postal Service and was responsible for the first applications of integer programming to the design of postal systems.

Born in Brooklyn, New York in 1942, Mr. Lind attended M.I.T. where he received S.B. and S.M. degrees in Electrical Engineering, and Harvard University where he received his M.A. and Ph.D. degrees in Applied Mathematics. While at M.I.T. he was elected to the Tau Beta Pi, Eta Kappa Nu and Sigma Xi honorary Societies.

Mr. Lind is married with one child and resides in Washington, D.C.

BIOGRAPHICAL SKETCH

HENRY ROSE
General Counsel
Pension Benefit Guaranty Corporation

Mr. Rose has been General Counsel of the Pension Benefit Guaranty Corporation since its establishment in September of 1974. Previously, he had served since 1962 in the Office of the Solicitor of the Department of Labor in a number of positions, including Associate Solicitor for Legislation and Legal Counsel, Deputy Associate Solicitor for Labor Management Laws, and Special Assistant to the Solicitor for Civil Rights. Mr. Rose also served earlier on the staff of the General Counsel of the National Labor Relations Board (1952-53) and had been in private law practice in Buffalo, New York (1953-56).

Mr. Rose has a B.A. degree in history and government from the College of Arts and Science, University of Buffalo and a J.D. degree from the University of Buffalo School of Law. He was Sterling Fellow at Yale University School of Law from 1956-57. Mr. Rose has held a number of academic positions including, Associate Professor, University of Toledo College of Law; Associate Professor, Rutgers University Law School; Lecturer, University of Virginia Law School; Academic Visitor, London School of Economics Law Faculty. Mr. Rose undertook full-time research on the administration of the Hatch Act under a Ford Foundation grant in 1959, and on comparative legislative process under a Career Service Award of the Department of Labor in 1971-72.

Mr. Rose, born March 28, 1927, is married and has three children. They reside in Columbia, Maryland.

BIOGRAPHICAL SKETCH

William H. Moore
Assistant Executive Director
for Special Projects
Pension Benefit Guaranty Corporation

Mr. Moore was appointed Assistant Executive Director for Special Projects in August 1976. He served as Assistant to the Executive Director from March 1975 until appointment to his current position.

Prior to joining the Corporation, Mr. Moore served for fourteen years as Vice President of the Electronic Industries Association.

There among other responsibilities he was Plan Administrator for their pension plans. His broader responsibilities included representing the electronic industries in many of their dealings with the Federal procuring agencies and the Congress.

He had previously spent 19 years with the Department of the Navy. Most of that time he served as the top procurement specialist in the Office of the Secretary of the Navy. He was instrumental in the development, enactment and implementation of the Armed Services Procurement Act. He helped initiate the Armed Services Procurement Regulations.

Mr. Moore was born in Mississippi. He took his graduate work in three years at Illinois College, from which he was graduated with a major in mathematics and with membership in Phi Beta Kappa. He received his doctorate in 1938 from the University of Chicago. He now resides in Bethesda, Maryland.

BIOGRAPHICAL SKETCH

CHARLES W. SNEARER
Director
Office of Management Services
Pension Benefit Guaranty Corporation

Mr. Snearer was appointed Director of the Office of Management Services in July 1977. He had previously served the Corporation as Deputy Director, Office of Finance and Administration and earlier as its first Administrative Officer.

Before joining the Corporation in November 1974 he was Director, Office of Administrative Services, Office of the Assistant Secretary for Administration, Department of Labor. He had held that position for two years and had previously served as Deputy Director of the Office and earlier as the Chief, Division of Supply and Property Management and Assistant Chief, Division of Field Operations. He also served as a management analyst with the Wage and Hour and Public Contracts Division after joining the Department in July 1962. On February 7, 1975, he was awarded the Secretary of Labor's Recognition Award.

From January 1961 to July 1962 he was employed by the Central National Bank of Richmond, Virginia, and the U. S. Army Ordnance Corps.

Mr. Snearer, born July 27, 1938, graduated from Virginia Polytechnic Institute with a B. S. degree in Business Administration in December 1960. He is married and has four children. They reside in Oakton, Virginia.

DESCRIPTION OF CORPORATION

Mr. LIND. As you know, Mr. Chairman, we were established in 1974 under the Employee Retirement Income Security Act. We are a self-financed Government corporation that receives no appropriations from the Congress. We are financed through premiums paid by approximately 80,000 covered defined benefit pension plans in the country.

Our budget plan for 1979 includes two activities.

First, there is a request for $23.2 million covering administrative expenses, and that includes 544 positions.

That is an increase of 21 positions.

Second, we are showing a $46 million activity which involves payment of benefits and the purchase of annuities by the Corporation.

EXPECTATIONS OF MULTIEMPLOYER PLAN TERMINATIONS

Mr. Chairman, there is, to my mind, one major uncertainty as to our future program and budget requirements.

And that concerns the coverage of multiemployer plans.

At the time ERISA was enacted, the Congress had been told that multiemployer plans did not terminate because the risk of the pension plan was shared among a large number of participating employers.

That belief was supported by Government studies which had shown rather small losses.

Therefore, at the time ERISA was enacted, Congress deferred mandatory coverage of multiemployer plans until January 1, 1978.

Now a study conducted by the PBGC last summer, Mr. Chairman, indicated that, in fact, those expectations were incorrect.

Senator EAGLETON. The expectations being, once again, that——

Mr. LIND [continuing]. That the claims arising from multiemployer pension plans would be low—that multiemployer plans did not need insurance.

Senator EAGLETON. Congress felt that way, and such expert testimony, as we had back at the time, pointed that way?

Mr. LIND. That's right, Mr. Chairman.

Senator EAGLETON. But the cruel, harsh world was otherwise?

Mr. LIND. That's right. To date we have already covered two multiemployer plans, one in the millinery industry, one in the milk-driver industry. And the total unfunded liabilities in those plans are roughly $23 million. That is the net cost to the Corporation.

But, more significantly——

Senator EAGLETON. Millinery and milk?

Mr. LIND. Yes, the millinery plan was operating in the hat industry. People no longer wear hats, so it has declined tremendously. It's also suffered from foreign competition.

And, in the milk-driver industry, we are dealing with home delivery of milk. Again, that is a declining, almost extinct trade today.

Senator EAGLETON. Do we expect further trouble in the millinery field?

Mr. LIND. Yes, we do. There is also a number of other declining industries in the country, which we think will be trouble spots for us. We have the maritime industry, for example, including longshoremen and offshore personnel where a combination of foreign competition, technological changes and changing consumer preferences have caused a tremendous decline in that industry.

Senator EAGLETON. What about industries like televisions? I ask that, because we had the last Zenith plant.

Mr. LIND. Yes, we have declines in those industries. Those industries, however, are generally operated under single-employer pension plans.

Senator EAGLETON. I see.

Mr. LIND. The multiemployer industries tend to be primarily labor-intensive industries. They are not highly capitalized and, through a combination of technological change, foreign competition, and changing consumer preferences, many of those industries are now in sharp decline.

Senator EAGLETON. Did you have one pension plan covering all hatmakers?

Mr. LIND. No, these were three plans operating in the New York area. There are other hatmaking, millinery, and apparel-type plans——

Senator EAGLETON. But they are not in trouble?

Mr. LIND. Oh, yes, I think many of them are, throughout the country.

Senator EAGLETON. They all are?

Mr. LIND. A significant proportion.

Senator EAGLETON. What is coming next? You had three in New York. Each year there are going to be more, you would predict?

Mr. LIND. Our studies indicate that about 2 percent of multiemployer plans in the country covering about 5 percent of the participants are in very dire economic straits. We think they have a high potential for termination in the next 5 years and that these plans could result in net claims on the Corporation of approximately $350 million.

PENSION PLAN TERMINATION INSURANCE

Senator EAGLETON. Refresh my memory on ERISA a little bit. What are the trigger mechanisms, if any, that bring you or us, the Government, into the picture, and what is our residual obligation, once we are brought into the picture?

Mr. LIND. Well, in general, for private pension plans which are covered, at the time a decision is made by either the trustees in the case of multiemployer plans or the plan sponsor or administrator in the case of single employer plans, they are obligated to notify the Corporation at least 10 days in advance of the proposed date of termination.

So it is voluntary with the plan sponsor.

Senator EAGLETON. OK, the notice is given.

Mr. LIND. Upon receipt by the Corporation, we must determine whether the assets of the pension plan are sufficient to discharge the PBGC-guaranteed benefits. Now, the benefits which we guarantee are, in general, different from the benefits promised under the plan. On the average, we would say that about 70 percent of the

nonforfeitable or vested benefits under the plan are guaranteed by PBGC. Where the plan is insufficient—that is, where the assets are less than our guarantees—that difference becomes a liability of PBGC. In financing this liability we can seek to collect from the employer up to a maximum of 30 percent of the employer's net worth, where net worth is measured not on an accounting basis, as generally reported on financial statements, but measured on a basis reflecting the fair market value of the corporation or employer who has terminated the plan.

Now, where that 30 percent net worth limitation is binding, in other words, where we cannot collect the full insufficiency from the employer, the shortfall must be made up by the premiums which are paid by all covered plans.

Therefore, when you have a strong employer terminating a pension plan, we are nothing more than a collection agency which ties the employer's pension promises to the employer's assets. On the other hand, where you have a bankrupt employer, net worth is zero, and all PBGC financing of that plan must come from our premium system.

STATUS OF PLAN SPONSORS

Senator EAGLETON. You say when you have a strong employer in this situation, isn't he per se a weak employer? Maybe not bankrupt, but close to it? If he's strong, you don't have to get in the act.

Mr. LIND. Well, we do in some cases. Strong employers may operate many businesses, they may have subsidiaries and certain portions of their operations may be weak. They may shut them down, either because of business decline, or, for example, because they are moving their operations to another area.

We see that in the shoe industry moving from New England to the South. Where that happens they may terminate their pension plan.

Now, an interesting aspect of our program, Mr. Chairman, is that if a strong employer, owning a subsidiary corporation, were to liquidate that subsidiary, because of business failure, we could move against the parent corporation or all affiliated businesses under common control to enforce our claim.

So you can have a plan sponsored by a very weak employer who is affiliated with a much larger business entity.

Senator EAGLETON. Are there clever ways that a conglomerate can avoid this kind of accountability?

Mr. LIND. Indeed, there are, Mr. Chairman. One of the major problems that we have with our program occurs when there is a sale of a business or a portion of a business, and the pension liabilities are transferred.

That sale may involve the transfer of a pension plan from a strong employer with substantial net worth to what might actually be a shell corporation.

Senator EAGLETON. Is it a phony sale?

Mr. LIND. No, I think——

Senator EAGLETON. It may have all the legal niceties, but is it done as an artifice to avoid the consequences?

Mr. LIND. Not necessarily, but it could be.

In fact, there are economic circumstances where it would pay the seller to pay someone to purchase the assets. But I think that of the situations that we have been confronted with, they have, in general, been bona fide sales.

But abuse in this area is a distinct possibility, and many of these sales have increased our exposure.

We do not feel we have strong enough authority under the law to deal with these possibilities.

Senator EAGLETON. Do you plan to recommend to the authorizing committees any remedial legislation that might better guard against this?

Mr. LIND. Yes, Mr. Chairman. We are considering a number of approaches to remedy that problem.

But all of them bring with them, unfortunately, greater PBGC involvement in everyday business transactions.

Senator EAGLETON. That may be true. I would say you would be well advised just in your own best interest, if Congress was laboring and it was a legitimate misapprehension, this wasn't going to be much of a problem, that it was tiny, miniscule. And now it turns out it's much bigger than Congress really thought. Just in order to protect yourself, you better get up some recommendations so that 4 years from now, I won't be sitting here maybe, but some other Senator will, and he will say, "Well, why didn't you tell us about all this? Why did you shield us from it?"

For no other reason, do it for your own self-survival.

Mr. LIND. Well, I appreciate that, Mr. Chairman. We are working on it.

Senator EAGLETON. OK.

POTENTIAL LIABILITY OF MULTIEMPLOYER PLANS

Mr. LIND. I would just like to summarize the situation we face in the multiemployer area.

As I have mentioned, we feel that 2 percent of the plans have a high likelihood of termination. And they involve $350 million.

I think more worrisome to us is the fact that another 10 percent of the multiemployer plans appear to be experiencing significant financial hardship, which may result in termination sometime in the next decade or so. And these plans have an aggregate unfunded liability, which is an astronomical $3½ billion.

Senator EAGLETON. Well, I guess there is no way to guard against some of this. But I know when we had the bill up originally in 1969 or 1970, we were told, absolutely, this is a one-shot deal. They would never be back. This would take care of black lung for perpetuity.

They have been back three times.

We were told with the railroad retirement bill in the—I used to have that—1969 subcommittee, it was just incurring a little difficulty, nothing too serious. Give us a $100-or-so-million and everything's going to be in perfect shape.

And there is no end to that one, either.

So we passed this thing. It isn't your fault. No great problems coming down the line, et cetera.

Now you're talking about aggregate unfunded liability of these plans, $3.5 billion. Not your fault. It's our stupidity.

Mr. LIND. Perhaps I should quit while I'm behind.

Senator EAGLETON. Are you getting worse going down this list?

Mr. LIND. Unfortunately, I think the problems don't stop there. The problems I've just discussed are primarily the result of major declines in certain industries which are probably inevitable.

Senator EAGLETON. Just like railroad retirement, you know. You have got fewer people coming in and a lot of older people living longer.

Mr. LIND. I think equally significant, though, from our vantage point is the fact that the statutory provisions, as they currently exist, are having a disruptive and destabilizing effect on multiemployer plans, in our judgment, even where the economic environment is strong.

REASONS FOR MULTIEMPLOYER PLAN TROUBLES

Senator EAGLETON. Why does that seem to be indigenous to multiemployer?

Why does this trouble seem to be—why isn't non-, multi-, or the-single employer——

Mr. LIND. Well, I think that the phenomenon of multiemployer plans, the way they operate, is one which gives rise or has given rise to very large liabilities, but has not in the past produced terminations.

My own view is that most industries have a kind of long-term life cycle with a period of growth followed by a period of decline. In the multiemployer arena, when an industry declines and employers either fail or drop out of the industry, you don't have termination of a pension plan. You have a withdrawal.

And the unfunded liabilities that result from that withdrawal must be assumed by the ongoing employers, which means that the contribution rates have to go up and the active workers find more and more of their wages going to support vested participants who may no longer be working in the industry.

Now, this can take decades until you reach a point where the burden on the active workers is untenable.

In the millinery plan, for example, which started in 1950 with 10,000 participants, the average cost of that plan was 2 percent of payroll. Almost all of the participants were active workers at the time.

On the date of termination, which was December 31, 1976, the participation in the plan had declined to less than 4,000 participants, 2,700 of which were retirees.

So you had a ratio of active workers——

Senator EAGLETON. Two to one.

Mr. LIND. Yes, and the cost of the plan had gone to 11 percent of payroll in a low-wage industry.

So the incentives are very strong for active workers to terminate the pension plan. Employers, too, are faced with labor costs that make them even more noncompetitive, given circumstances involving foreign competition.

Senator EAGLETON. This whole pension area, I have an interest in that, we are going to hold some hearings. I hear the D.C. bill—we have a colossal problem with the police and firemen pension.

Mr. LIND. Yes.

Senator EAGLETON. Teachers in the District of Columbia have a tiny amount of funding, but—almost next to nothing. We are accruing huge benefits there. Everybody is getting disabled. Every school teacher, one year, that retired in the District got disabled in his or her last year of teaching. Which boosts the price when you are disabled.

The New York City saga on pensions is well known to you and others. You have the military retirement system.

The President has appointed yet another commission to study that. And we better appoint one for you. That will give us both—we don't have to do anything then when we appoint one of those.

Mr. LIND. Well, I don't know whether we need another study commission.

DEFERRAL OF MULTIEMPLOYER COVERAGE

Senator EAGLETON. No, we don't. But I think your raising sufficiently grave storm warnings that you better raise them with, I guess, the Human Resources Committee.

Mr. LIND. Well, we did.

Senator EAGLETON. They had original jurisdiction, so I guess we still have it.

Mr. LIND. As a consequence of the storm warnings which we and others have raised, Congress did pass Public Law 95–214 which deferred mandatory coverage of the multiemployer plans another 18 months. I think, more important, Congress has charged the Corporation with coming to the Congress next July with recommendations and alternatives for legislative action.

Senator EAGLETON. In the interim, your request for new employees is modest. What was the number?

Mr. LIND. Twenty-one.

Senator EAGLETON. What actions have been taken to resolve problems in multiple agency administration of ERISA, the employer, et cetera. Dual administrations.

Mr. BURKHARDT. Yes. Senator, that question primarily is the relationship between the Internal Revenue Service and the Department of Labor.

There are a number of areas that were written into the original legislation that provide for dual administration.

One of the big areas is the area of exemptions, prohibited transactions. There, for example, if a plan wants to get an exemption because they have a certain particular set of circumstances, they would have to write to the Department of Labor, to the IRS, depending on what it was.

There has been in the past some time delays with regard to administering that particular exemption or even answering correspondence and the rest. There is some confusion that exists because of overlapping jurisdictions in certain areas. It is not entirely clear in the legislation.

There have been a number of bills; Senator Bentsen has one, and so forth, to straighten out these dual jurisdictions. The administration has been working with Treasury for some time now, and we are very close to an agreement to resolve administratively that particular problem with our dual jurisdiction.

Senator EAGLETON. Do you need legislation?

Mr. BURKHARDT. Yes. After we get this agreement completely worked out, we will submit it, and it will be part of the President's reorganization package.

SIMPLIFIED REPORTING

Mr. LIND. Mr. Chairman.

Senator EAGLETON. Yes.

Mr. LIND. May I respond to that?

Senator EAGLETON. Yes.

Mr. LIND. While we are significantly affected by the policies of the Department of Labor, the Treasury Department, and IRS, by and large, we do not feel that multiple administration and multiple jurisdiction under ERISA has created major problems for the Corporation.

Nevertheless, there are certain areas that have either been a problem for us or been a problem for the public.

We have taken, we think, a number of steps to try to eliminate those problems, and improve the service to the public.

First, this year we consolidated our annual report with the reports of our ERISA colleagues at DOL and IRS. We are currently engaged in efforts to tie the payment of our premium with that report. The first thing we have done is to delay the due date of our premium to coincide with the due date of the annual report. We are now exploring with the Internal Revenue Service whether a check can be filed with that annual report and what the problems and costs would be to effect such a merger, so there would be basically one filing associated with ERISA matters.

Another area which has been a tremendous problem for the public is the filing of notices of termination. Right now, we require a notice, as does the Internal Revenue Service, and there is a tremendous amount of overlapping data requested. Moreover, the process is complicated. Once we have made determinations, the IRS must make its determinations, and it has been rather complicated and, I think, frustrating process for some pension plans.

We are attempting now to work out with the Internal Revenue Service a single form which will be filed with one agency, and that agency will be the entry point for the public and all the necessary things that have to take place will then happen.

With DOL, we are trying a number of experiments now to utilize some of Mr. Burkhardt's people out in the field to help provide assistance with respect to our program.

We have recently opened an office in Los Angeles which is a pilot office where we are trying to work with the Labor Department people out there to handle inquiries regarding our program. We are also going to be experimenting with using Labor Department personnel to provide some of the fieldwork that is necessary to process terminations.

We have tentative agreements to have telephone numbers in each city tying into LMSA offices so the public can be served there, and, of course, we are going to try to back that up with the kind of training for LMSA personnel that is necessary to enable them to serve the public with respect to title IV.

In the policy area, I think there has been a mechanism that's been in existence for some time. Its use varies, but we have had a policy board in existence since the enactment of ERISA.

That board is made up of the top officials in the ERISA area. It acts as a mechanism for coordinating policies and for clearing all our regulations through each other, so that we can try to identify early on the interactions of our regulations with each other's programs. That continues today.

Senator EAGLETON. Very good.

Well, as many of those things that you can work out with one form and one entry point, et cetera, obviously the better off you will be because it goes without saying that when you—when I say we, I mean Senators and House Members, we are besieged with the usual paperwork letters; we get them in large numbers. Some of the situations apparently can't be avoided. But perhaps some of them can.

Any progress is most welcome.

Have we heard from you, Mr. Secretary, or your—have you said all you want to say on the fiscal year 1979 budget?

Mr. BURKHARDT. Yes. I just summarized it. I can go into it if you like.

Senator EAGLETON. Well I have a few questions.

The organized crime program. Why are you cutting back on participation in that?

ORGANIZED CRIME PROGRAM

Mr. BURKHARDT. Well, the organized crime program has had its ups and downs since the Nixon administration first put it in, in 1970. Its original purpose was to draw from various agencies certain kinds of support. There was a commitment in terms of dollars in 1970 for approximately 199 staff-years of effort.

What has happened over time is that this has been tied into our Landrum-Griffin Act enforcement.

In other words, the same people that we had investigating union elections and embezzlement charges and the rest were also utilized for the organized crime program.

The Justice Department set up strike forces in different cities. They used to have about 17 or so, now I believe they have 13.

In any case I found out when I took over this job that there had been a steady erosion of staff-years of effort devoted to that particular effort over this last 7- or 8-year period for a couple of reasons.

One, the Landrum-Griffin program elections cases had increased in the period from 1972 to 1978—about 100 percent.

There had been no increase in staff at all. All they were doing over that time period was siphoning away manpower from this organized crime effort.

The other thing happening with regard to the Organized Crime effort is that it had no direction, had no leadership, had no targets, no timetables, no goals, nothing.

They were just independent operations run in the individual cities and really weren't an effective use of staff in looking into this problem.

The GAO as recently as last year bore this out, and documented the inefficiency of that particular program.

But there was a third factor I looked at. I said one, we have to be honest with Congress and identify the amount of people that we are actually using in terms of this effort, and second, we have to see if this is the right mechanism for looking into the kinds of problems that we have.

In 1970 the only tool that existed in terms of the organized crime program as it related to labor unions was the Landrum-Griffin Act. But since 1974 we have had the introduction of ERISA. That act places enormous burdens for fiduciary responsibility on trustees.

These trustees are in many instances involved in joint labor-management Taft-Hartley-type plans.

We have found that especially in our investigation of the Teamsters' Central States Penson Fund which by the way you may have noticed we just concluded our primary investigation and today filed suit against all the trustees of the Central States Pension Fund for recovery of losses—but that was an ongoing effort under ERISA.

And ERISA says that you look into these particular problems, which had been looked into by congressional committees, by special committees, by the FBI, by the Justice Department for 20 years.

Nothing ever happened except maybe one indictment on grand jury tampering.

The point is that in the last 3 years we have effectively removed all the trustees from control of Central States Pension Fund. We have taken the assets of that fund and put it in the hands of independent money managers so that there can be no more misuse of funds.

Then we have taken a third step which is to file suit for recovery of losses that we feel resulted from the actions on the part of the trustees.

That kind of effort and that kind of tool is provided in ERISA. Most of the problems that we see with regard to labor unions have to do with large amounts of money, and control of these large amounts of money.

We think that there is a great deal of overlap with regard to the organized crime effort and our effort under ERISA.

We think that our efforts under ERISA lead to a better remedy for protection of plan participants and beneficiaries.

So what we decided to do was to take a look at this organized crime program and assign one expert labor person in each of the strike forces to work and coordinate all our activities.

That would mean all our Landrum-Griffin activities on embezzlements, all our ERISA activities with regard to fiduciaries and then coordinate that with the strike force attorney, rather than provide the staff to do the Justice Department's criminal investigation.

PROTECTION OF UNION MEMBERS

Because our primary focus is civil, we have to protect union members and plan beneficiaries. We don't think we can do that good a job through the organized crime mechanism that as been established over the past couple of years.

So we have not really regressed in our efforts to get into these problems.

As a matter of fact, there are only 64 positions assigned to do investigative work.

It would be dishonest for me to say we are reprograming 100 or so because they were never there. We are reprograming approximately 51 of them into the Labor Management Standards Enforcement Program.

That will allow them to continue to do the embezzlement cases and will also allow them to communicate whatever they find with the organized crime strike task forces.

It is a change in emphasis that we have here. We have talked to Judge Bell about this.

Senator EAGLETON. I was going to ask you did you or Marshall——

Mr. BURKHARDT. Right, the Secretary, as a matter of fact I first had meetings with Assistant Attorney General Benjamin Civiletti and Tim Baker on this issue about 6 months ago to explain how we are moving in this.

And just last week, Judge Bell and Secretary Marshall had lunch on this very issue along with the Central States issue, to discuss how we were going to proceed there in terms of litigation.

Both these issues were discussed and Judge Bell understands our position.

One of the things that may be indicative of our new effort is the new task force we have put together in southern Florida.

For years, southern Florida has been a real problem in terms of the loss of moneys. There have been indictments against a number of people who were fiduciaries with regard to certain programs.

We had people working on the strike force there. We found there may be a pattern in terms of the fiduciary relationships between certain trustees in a number of plans in southern Florida.

We didn't think that the primary focus of that should be criminal investigation although the criminal part should continue and go its own route. We thought we should start looking at the pension and health and welfare plans in that area and make sure there isn't money being siphoned off, and if there is, to move immediately to protect the assets as we did in the Central States.

So we put together a task force in LMSA, made up primarily of ERISA investigators and a few Landrum-Griffin investigators that will be working in that whole area. They started last week and probably will be there for the next year at least in terms of making sure that the participants in the plans in southern Florida don't have their money taken away.

If they do, we will move against them as quickly as possible.

We worked that out with Justice. We had a meeting with the strike force attorney there and explained it to him.

We could have given him several employees to work on an organized crime criminal investigation but what we needed were 12 employees working on the civil aspects.

Justice agreed that if we looked into certain items they could use our information more readily than we could use theirs.

THE GRAND JURY PROCESS

The reason is the grand jury process. They get information through the grand jury process that is focused primarily on criminal investigation.

We cannot then simply take that information and use it civilly and move first because some judge somewhere is going to say, you just used the grand jury process as subterfuge, you are really creating a civil case. We don't want to find ourselves in a position of not being able to move against trustees or plan fiduciaries because we are so entwined in a criminal investigation over which we don't have any real responsibility anyway.

But we can improve our coordination with Justice. It is sort of a one-way street. We can tell them everything we have got, but we can't be involved in using their information if they have gotten it through the grand jury process.

So I think this is a much better system. I think there is probably some problem in terms of communicating that out in the field. You get certain little pockets of people around the country who are unhappy with this procedure for some reason or another.

Senator EAGLETON. You said earlier on in your answer or commentary that, I think you said you just today completed your primary investigation of the Central States fund.

What does primary investigation mean?

Mr. BURKHARDT. Primary is probably not the right word. It's really the third part of what we set out to do.

When Secretary Marshall took over, there had been an investigation of the Central States Teamsters Fund, since 1958 or 1959 I guess, either by a congressional committee or Justice, and also by the Department of Labor.

It had been going on a year when he took office. In the first 3 months in office, he moved immediately to remove the trustees of the fund.

He also secured an agreement where all the assets of the pension fund were transferred out of their hands.

Those were the two primary focuses.

His third objective was to see if there were losses, or violations of ERISA, and if there were, to move against the trustees.

We completed our investigation in terms of that last objective just recently and determined that there were violations. There were links between actions or inactions on the part of trustees and losses, or potential losses, that could result to beneficiaries.

So that was the third and culminating part.

I said primary. I meant we were now in the process of taking the case to court and, obviously, over that time might discover some other items that need to be investigated.

So it's not completely concluded.

Senator EAGLETON. Is all of your information you gathered in the office now about a year, and I know Marshall moved quickly on this?

Has all the information you gathered which is not in any way protected by the secrecy of the grand jury, been turned over to the Justice Department?

Mr. BURKHARDT. Right. We have a formal policy committee through an agreement we have——

Senator EAGLETON. You periodically, I take it, or the members of the committee periodically exchange information.

Mr. BURKHARDT. That's right. Any information they get not within the confines of the grand jury is exchanged with us.

Senator EAGLETON. Yes. I would suggest, Mr. Secretary, that you make an appointment to see Senator Nunn, who is the acting chairman of the permanent investigations subcommittee of the Governmental Affairs Committee.

Mr. BURKHARDT. Yes.

Senator EAGLETON. And you make a note. Tell Nunn's person that I have suggested that the Secretary come over and visit with him on Central States, and also, the basic question which triggered these answers, the cutting back on participation in the organized crime program.

He may have some ideas he wants to share with you and he should be apprised of what's going on or not going on in this area.

Mr. BURKHARDT. Fine.

Senator EAGLETON. Then I want to confer with him before we take any action on this portion of the budget.

Maybe this is hard to answer, but how many of your staff are involved in pension fund investigation cases where there is a likelihood of either criminal involvement or serious financial loss?

You know, maybe some funds short, $12 or $126, I'm not worried about minutia.

But how many people do you have assigned where there is a rather serious matter, potentially may be criminal, if not certainly, but at the very least, substantially, from a civil point of view?

ENFORCEMENT STRATEGY

Mr. BURKHARDT. We have just issued an enforcement strategy document. First of all, we can't determine whether violations are criminal or not because we are not looking for motive or fraud under this law.

One of the advantages of the ERISA law is that we don't have to prove motive. We don't have to prove that anybody got anything out of this, but that they acted irresponsibly and didn't act in the best interest of the participants.

So we don't take that next step in terms of determining through checkbooks or income tax or whatever, that the individual actually benefited from the transaction, but that he acted inappropriately.

I think that you are alluding to those kinds of investigations which are primarily fiduciary investigations.

I would say our intention right now is that they would make up approximately 60 percent of all our investigations and our staff-hours of effort.

In terms of the exact cases, Ian Lanoff, Administrator of the Pension Benefit program—do you know the number of fiduciary cases under investigation, as opposed to the other cases?

Mr. LANOFF. We conducted 789 investigations and audits in fiscal year 1977. For fiscal year 1978, we have 2,450 planned. And for fiscal year 1979, we have 2,575 planned.

Those are investigations and audits of potential fiduciary abuses.

Senator EAGLETON. That is where some preliminary appraisal at least raised enough of a red flag that you think you have to look into it further?

Mr. LANOFF. That's right.

Senator EAGLETON. The way the IRS does it, it cracks out a bunch of random returns. This is where there is some risk of difficulty, right?

Mr. LANOFF. Right. These are initiated in two ways. First, by complaints that come into the regional offices from parties that might know some facts that might lead to something. But just during the past year, we have implemented a mechanized computer system of going over annual report forms to identify possible red flag areas which might suggest fiduciary abuses.

For example, if there is a bonding loss reported on the annual report form, if there are so-called party in interest transactions reported, if there are leases in default, loans in default, those kinds of things, then we will send those particular annual reports out to the field and ask our investigators in the field to go into those plans and conduct audits.

Senator EAGLETON. Mr. Secretary, who is your liaison over at Justice? Civiletti or who?

Mr. BURKHARDT. I'm dealing on the level with Tim Baker.

Senator EAGLETON. Is he the fellow that just went to Baltimore?

Mr. BURKHARDT. He hasn't gone to Baltimore yet, has he?

Senator EAGLETON. Just yesterday, I think.

Mr. BURKHARDT. But we have had numerous meetings with Curt Muhlenberg in the organized crime section, as well as——

Senator EAGLETON. Mr. Secretary, we have a series of other questions. Had I been here on time and had we not had all these votes et cetera—they are detailed but they are important.

So what I think we will do because of these delays, we will submit them to you. If we feel that we ought to ventilate them in greater depth, we may ask you to come back.

But we have kept many people tied up here too long, and that's my fault.

But they are not just frivolous things that we are throwing at you. Some of these areas cover pretty important matters.

So we will pursue that route. If we need you back, we will call you back.

Mr. BURKHARDT. Very good. We will be happy to respond to those.

Senator EAGLETON. I told Jim, I think, what we ought to do. This is so that there are no misconceptions on this organized crime and task force, and all of that.

I think it would be wise if you or Secretary Marshall, or both, if you—get either Mr. Civiletti or Mr. Mullenberg, or both myself, Senator Nunn, staff of the permanent investigation committee, so that all of us know what's going on, or what's not going on, so I don't hear a piece of the story, Nunn hears a piece, and someone else another piece.

Mr. BURKHARDT. If you are going to have Secretary Marshall, I think you ought to have Judge Bell involved.

Senator EAGLETON. If Judge Bell doesn't want to do it, if he says, "I'm letting Civiletti have that," OK—I'm not trying to have just a

big seance but so we are all together. But I think Senator Nunn should be apprised of all this as well.

Mr. BURKHARDT. We will be happy to do that. Shall I leave that to you to set up?

Senator EAGLETON. Yes. Jim will get back to you and act as the sort of coordinator. It's nothing that needs to be done in an urgent rush, but, you know, we have the budget before us and we will be pondering it awhile.

Mr. BURKHARDT. Thank You.

[CLERK'S NOTE.—The justification material for this account appears in part 1 of the House fiscal year 1979 Labor–HEW Appropriations Subcommittee hearing record.]

QUESTIONS SUBMITTED BY SENATOR EAGLETON

Senator EAGLETON. I have some additional questions which I will give to you to answer for the record.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

Questions Submitted by Senator Eagleton

SUPPLEMENTAL FOR CONSTRUCTION INDUSTRY COORDINATING COMMITTEES

Question: Why can't you wait until fiscal year 1979 to initiate new pilot projects for Construction Industry Coordinating Committees?

Answer: The Secretary as well as the Assistant Secretary for LMSA has initiated direct contact with representatives from both labor and management in Kansas City and San Francisco regarding the proposed programs. In both cities the response was very supportive and the Secretary indicated that the program would be getting off the ground shortly. In both cities the necessary spadework has been done and the program is ready to commence. Any delay at this time would be extremely counterproductive and would indicate that the Secretary could not fulfill his pledge to commence the program this spring.

Question: When do you anticipate hiring the 28 new staff being requested in a supplemental for this program?

Answer: The new staff will be hired as soon as possible after the proper budget approval is received.

Question: Where do you propose establishing new pilot projects?

Answer: They would be established in Kansas City and San Francisco.

STATE OF COLLECTIVE BARGAINING

Question: Whenever there is a period of labor-management unrest or there is a particularly sticky strike in progress, a number of articles appear and speeches are made to the effect that collective bargaining appears to be on its last legs, that it is outmoded, or that it is no longer capable of coping with today's labor-management problems. Do you go along with this school of thought concerning the institution of collective bargaining?

Answer: The news media is quick to pick up and report on industrial unrest, and strikes in major industries become page one stories, but the public hears much less about settlements without strike action. Looking at the facts, idleness due to work stoppages in 1977 was only 0.17 percent of estimated working time, down from the 0.19 percent of estimated working time lost in 1976. The Department cannot, therefore, accept the premise that collective bargaining is outmoded, but rather, it is becoming more sophisticated, as evidenced by such developments as the Experimental Negotiating Agreement in the basic steel industry. Collective bargaining remains the best means in a democratic society for restoring labor-management issues, and its future is based upon many years of successful experience and important contributions to our economy.

COLLECTIVE BARGAINING OUTLOOK

Question: As you look ahead at what negotiations are coming up in the months ahead, what do you see as the potential collective bargaining trouble spots?

Answer: Major contracts expiring in 1978 include the railroad, shipbuilding, construction, offshore maritime, west coast longshore, U.S. Postal Service and the airline industry contracts. It is difficult at the outset to recognize possible trouble spots in these talks. However, the Department expects that job and income security will be major goals of the unions involved in talks this year and that work rule changes will be significant goals of industry.

ORGANIZED CRIME PROGRAM

Question: Why are you cutting back on participation in the Organized Crime Program?

Answer: The unusual increase in the election workload has made a reprogramming of resources essential. During FY 1970, 1971 and 1972, the average number of election case openings per year was 140.6, but for FY 1975, 1976 and 1977, the average increased 52.9% to 215 election investigations per year. In addition to the number of election investigations in recent years, the complexity of the cases has also increased dramatically. During FY 1977, for example, a total of only 246 election investigations were opened but they required individual investigations of 15 national or international bodies, 49 intermediate bodies, and 2,078 local unions. In order to meet the rising need for resources in the elections program over the last several years, it has been necessary to utilize personnel normally assigned to the Organized Crime Program or other investigative activities, such as basic, deficiency, or delinquency investigations and field audits, in the election program during times of peak workload. The use of such personnel in the election program has become increasingly frequent with the result that the mandated investigatory activities as well as the OCP have suffered. Since the election investigative caseload estimates reflect an increase in FY 1978 to 281 case openings and a further rise to 310 openings in FY 1979 (a figure equivalent to 220.48% of the average for FY 1970, 1971 and 1972), it became apparent that under the existing situation more resources from OCP and other investigative activities would have to be diverted to elections. Consequently, it was decided that beginning in FY 1979 emphasis should be placed upon the mandated investigative activities in an effort to maintain balanced enforcement and reporting programs. In order to accomplish this in the face of the rising election caseload and a shortage of resources, the only viable alternative was to reprogram much of the OCP assigned resources for utilization by the mandated election and investigative programs.

Question: Exactly how many organized crime program staff will be reassigned elsewhere?

Answer: The proposed reprogramming will primarily affect professional OCP personnel in the field. Instead of the 64 positions presently budgeted, the number of professional OCP field positions under the reprogramming will be reduced to 13, with two additional OCP positions in the National Office. The remaining 51 professional field positions will be reassigned to higher priority activities in the Landrum-Griffin program.

Question: How many staff are currently involved in pension investigation cases, and how many are requested for fiscal year 1979?

Answer: Although staff are involved in investigatory activities relating to pension and welfare plans, they are not part of the Organized Crime Program, but rather come under the Pension and Welfare Benefits Program. When FY 1978 hiring is completed, the field will have 219 compliance officers and auditors investigating cases. This is an increase of 51 professional positions above the FY 1977 level. In the National Office, the Special Investigations Staff and the Office of Enforcement have 68 professional positions for investigative and related work. It is presently anticipated that this number may be slightly reduced to perhaps a level of 61, in FY 1979; such positions would be used to continue to reduce any remaining backlog of applications for exemptions from prohibited transaction provisions and to maintain a current status in this area. No additional investigative staff have been requested for FY 1979.

Question: Have you coordinated your plan to reduce staffing related to Strike Force activities with the Justice Department?

Answer: Yes, appropriate Department of Justice Officials have been advised of the reprogramming proposed for FY 1979. Further, Secretary Marshall has recently discussed LMSA's FY 1979 proposal with Attorney General Bell.

Question: Does the Justice Department feel that 15 positions are sufficient for Strike Force activities?

Answer: On the two occasions the Department of Labor discussed the subject with Justice officials, the latter have indicated they believed that 15 positions are not sufficient. In addition, Secretary Marshall has personally discussed the Department's plans with the Attorney General.

VETERANS' REEMPLOYMENT RIGHTS

Question: You are proposing to eliminate 11 staff from the Office of Veterans' Reemployment Rights. What assurances can you give that this will not result in a drop in the quality of services?

Answer: At the time the proposal to eliminate the 11 positions was formulated, it was anticipated that there would be a continued decline in the case intake with no drop in the quality of services except for an increase in the time necessary to complete investigations.

Question: What will you do if the anticipated drop in workload fails to materialize?

Answer: The Department will try to maintain acceptable standards of case handling and acceptable numbers of pending cases by adopting streamlined case handling procedures such as increased use of telephone calls and correspondence as compared with the present emphasis on on-site investigations and conferences, and reducing technical assistance activities. The Department would also seek restoration of the abolished positions at the first opportunity if workload projections appear to justify it.

Question: What will happen to the 11 staff whose jobs you plan to abolish?

Answer: It is hoped that before the start of FY 1979, most of the incumbents can be transferred to vacancies that come up in the other LMSA programs for which they are qualified, and that some of the 11 slots will be vacated by attrition.

PROCESSING FEDERAL LABOR-MANAGEMENT CASES

Question: What factors determine how quickly you can process Federal labor-management dispute cases?

Answer: The time necessary to process a representation, unfair labor practice or grievability/arbitrability case is determined by the type of case, normal procedural requirements, the numbers and locations of the activities and labor organizations involved, the complexity of the case and the possible involvement of another third party in the decision, the remedy involved or an appeal. Each type of case requires sufficient notice to the parties involved of the petition, complaint or application, an investigation, a determination and possibly an election in a representation matter, and may be subject to appeal to the Federal Labor Relations Council, the General Accounting Office (where back pay is involved) and/or the Civil Service Commission (in the event a statutory appeal system is involved). Determinations may be made expeditiously by the Regional Administrator where no credibility and/or legal issues exist, but in those matters where such issues do exist the matter is normally resolved through a hearing before an Administrative Law Judge or an LMSA Compliance Officer and a subsequent determination by the Assistant Secretary. Whereas time required for procedural requirements (notice, replies, briefs, appeals, etc.) remains essentially constant, varying only where such matters are contested, the time required in the investigation phase of cases varies substantially and is proportionate to the legal and factual complexity of the case and the numbers and locations of the Activities involved. While improvements in the processing of cases have and will continue to be made, a major reason for current and past delays results from time spent by other third parties or appropriate authorities (i.e. Administrative Law Judges, Federal Labor Relations Council, Civil Service Commission and General Accounting Office) over which the Assistant Secretary has no control.

Question: How quickly are cases being processed, compared to a year ago?

Answer: From a representative sampling of data obtained, overall case processing time in the past six months has been reduced by approximately 25 calendar days or 11 percent when compared to a year ago.

IMPLEMENTATION OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974: LABOR

Question: As noted by a GAO report, action was taken in October and November 1976 to reduce the backlog of applications for exemptions from prohibited transactions. The report also states that over three-fourths of the applications are awaiting final action. Has this situation improved since June, 1977?

Answer: Progress is being made in the Pension and Welfare

Benefits Program (PWBP). The Department has increased experience, better procedures, and improved cooperation with the IRS. Ten additional staff have been detailed to work in this program. As of June 17, 1977 the Department and the IRS had received 724 applications and had processed 208 or 29% of these. However, as of December 31, 1977, 854 applications have been received and 429 or 50% of these have been processed. In calendar year 1977, the Department processed 302 exemption applications, approximately three times the number of applications processed in prior years. Seventy-three percent of these applications were processed since June, 1977.

Question: The GAO report also recommended that the Secretary assess the efficiency of the present structure for administering the Employee Retirement Income Security Act and the anticipated size of future ERISA program operations before making a decision on reorganization. Has this been accomplished?

Answer: The Secretary evaluated the administrative structure of the Employee Retirement Income Security Act prior to his taking office and determined that the program could be carried out more successfully by fully integrating the Pension and Welfare Benefits Program in LMSA. This has been completed, and both the Assistant Secretary and the Administrator are convinced that it has enabled the Department to utilize its field resources more effectively. For example a compliance strategy document, a compliance manual and a fiduciary training program currently are operational with the goal of improving the enforcement program. Another example is recent changes made in the public disclosure room which make the Employee Retirement Income Security Act forms more accessible to the public and to LMSA staff. The size of future Employee Retirement Income Security Act program operations will be determined in conjunction with a shortly to be proposed realignment of IRS and DOL activities to eliminate dual jurisdiction and in conjunction with the development of the FY 1980 Zero Base Budget submission.

Question: Labor officials have agreed that reorganization is being considered, and they awarded a contract on May 9, 1977 for a private contractor to evaluate Labor-Management Services Administration field office activities and organizational structure. Are the results of this evaluation available?

Answer: The final report on the Evaluation of the Delivery of LMSA Field Services was submitted by the contractor on November 18, 1977. Since that date, the report has been reviewed extensively by the LMSA Executive Staff and Regional Administrators. A number of the recommendations of the contractor have been favorably received, while others have been modified. A task group chaired by Assistant Secretary Burkhardt is now in the process of developing plans for the implementation of these changes and specific proposals for areas such as the delegation to the field of additional programmatic and administrative authorities.

ERISA ACT

Question: The GAO report noted that part of the problem in implementation of ERISA lies in delays in hiring sufficient qualified staff. Have these delays in hiring qualified staff been rectified?

Answer: All positions in the National Office have essentially been filled, allowing for vacancies that are present at any time due to normal turnover. The field is progressing rapidly in filling the additional positions received in FY 1978. The Department is acutely aware that qualified staff are important to the success of our program. A staff training program is underway which will increase the staff's abilities to deal with complex issues regarding the Employee Retirement Income Security Act fiduciary provisions. Further training is planned.

Question: Have pension program enforcement needs been developed?

Answer: Yes, in addition to the increase of staff received in 1978 a new compliance manual, training program and strategy document should significantly enhance the Employee Retirement Income Security Act enforcement effort.

FUTURE STAFF SIZE

Question: What is the anticipated future size of program operations in terms of staff requirements to ensure compliance with pension reform legislation and, thus, the protection of pension plan participants?

Answer: PWBP is working on determining the future size of the staff required to ensure compliance with the Employee Retirement Income Security Act. In FY 1978, 59 positions were added to the compliance program. During 1978 PWBP will gain greater experience in identifying and targeting violations through the "machine audit" of the annual reports. The outcome of these efforts will provide additional information on which to base estimates of the size of a "model" Employee Retirement Income Security Act compliance staff.

PENSION REFORM

Question: How many requests for assistance have been received from pension plan participants concerning loss or denial of benefits?

Answer: When PWBP receives such a request for assistance that requires some action by the field staff a participants rights or benefit disputes case is opened. Participants rights cases are those where the participant alleges discrimination; benefits disputes are where a participant or beneficiary is not receiving the full benefit to which they feel they are entitled. In FY 1977 PWBP opened 83 participants rights cases and 473 benefits disputes cases for a total of 556 such requests from plan participants for assistance. In the first quarter of FY 1978 (October 1 - December 31, 1977) PWBP has opened 20 participants rights cases and 94 benefit disputes cases for a total of 114 cases.

Question: How many people are in the field to provide such assistance, and how much of their time has been devoted to providing assistance?

Answer: In FY 1977 the field was authorized to hire 168 compliance officers and auditors. (Total field staff including clerical staff was 243). In 1978 this number was increased to 219

compliance officers and auditors. (Total field - 302). In FY 1977 and during the first quarter of FY 1978 approximately 12 percent of the total time spent on case production was attributable to participants rights and benefits disputes cases. The average participants rights case requires approximately five and one half staff days to complete and the average benefit disputes case requires approximately three and one half days to complete.

EMPHASIS ON ENFORCEMENT

Question: How much of the field staff's time has been spent in enforcement of the Pension Reform Act's provisions, excluding assistance to pension plan participants? What other activities are the field staff involved in, and could you express this as a percentage of their time?

Answer: Following is a chart which depicts the percentage of time which was actually spent in the previous fiscal year and in the first quarter of FY 1978 for each major component of field activity. Only productive time of professional staff has been included. The table does not represent clerical time, supervisory time, training or leave. An important part of protecting the interests of plan participants and beneficiaries in their pension and welfare plans is ensuring that the plans have sufficient assets to pay claims. To this extent PWBP emphasizes fiduciary investigations to protect plan assets from mismanagement, improper investment and other possible breaches of fiduciary conduct.

Percentage of Time Distribution

	FY 1977	FY 1978 (1st Quarter)
1. Enforcement		
a. Fiduciary	39%	35.5%
b. On-site Audits	5%	5.8%
c. Benefit Disputes	5%	5.5%
d. Participants rights	2%	1.6%
e. Disclosure	4%	3.4%
f. Deficient reports	.6%	1.7%
g. Delinquent reports	.7%	1%
h. Bonding	1.7%	2.9%
i. Title 18 (criminal)	.9%	2.7%
j. Prohibited Persons	.1%	.16%
k. Vesting	.07%	.18%
l. Funding	.02%	0
m. Termination	.01%	.01%
Subtotal	60%	60.5%
Technical Assistance	40%	39.5%

GAO REPORT

Question: In July, 1977 the General Accounting Office reported that the Department of Labor has much to do in the areas of issuing regulations and processing applications for exemptions from prohibited transactions. What progress have you made in these areas?

Answer: The development and issuance of regulations has been accelerated since the GAO report. Since January 1, 1977, seven final regulations, one temporary final and one proposed regulation have been issued. Thirteen regulation projects are scheduled to be issued in 1978. (See following list). Since the GAO report, the backlog in exemptions has been reduced significantly. As of December 31, 1977 PWBP has no applications for exemptions which are older than 4 months. In the five month period from August 1, 1977 to December 31, 1977, the Department and IRS processed 75 applications leaving 425 applications open. Of the 197 open applications assigned to PWBP, only 16 have not yet been reviewed, and none of these are over 4 months old. Of the remaining 181, it is anticipated that 10 will be closed by rulings and notices, 80 may be covered by proposed and anticipated class exemptions, 62 have received tentative denial letters and 29 are in the final stages of review prior to issuance.

Regulations issued since January 1, 1977

Claims Procedure (5/27/77)
Service Provider (6/24/77)
Summary Plan Description (7/19/77)
Statement of Rights (7/19/77)
Employee Stock Ownership Plans (ESOPs) (9/2/77)
Plan Divestiture (9/20/77)
Indicia of Ownership (10/4/77)

Temporary Final

Optional method for Disclosure, Multiemployer Plans (2 /11/77)
403 (b), Tax-sheltered Annuities (12/2/77)

Proposed

Reduction of Annual Reporting Requirements (11/29/77)

Regulations to be issued in 1978

Severance Pay
Annual Reporting Requirements
Suspension of Benefits
Transitional Rules
Supplemental Payments
Prudence in Investigations
Record Keeping Requirements -- Benefit Status Reports
Acquisitions/Sales
Arbitration
Church Plans
Government Plans
Bonding
Maintenance of Assets in Trust

PREPARED STATEMENTS

Senator EAGLETON. Any additional agency statements relating to pension programs will be placed in the record at this point.

[The statements follow:]

Prepared Statement on PBGC Program Revision

PBGC Annuity Purchases

The Pension Benefit Guaranty Corporation (PBGC) has revised its FY 1978 program to allow the Corporation to purchase annuities to pay guaranteed benefits on a selected basis. This paper provides the background for PBGC's program revision.

After an extensive re-evaluation, in November, 1977, the PBGC's Board of Directors (which consists of the Secretaries of Treasury, Commerce and Labor) reaffirmed that the PBGC may use its assets to purchase annuities when such action will enable the Corporation to meet its obligation to guarantee benefits in terminating pension plans with less of its assets than if it invested them and paid the benefits itself.

From the Corporation's point of view, the purchase of an annuity is similar to making a benefit payment in a lump sum. For this reason, annuity purchases will be financed in the same way as benefit payments. Annuity purchases allow the Corporation to take advantage of a specified rate and to transfer responsibility for making benefit payments to the insurance carriers issuing the annuities. The carriers also absorb any losses associated with deviations in assumed mortality experience.

The Board also determined that benefit payments, including annuity purchases, would be financed on a proportional basis that reflects the share ultimately to be financed by assets

of the PBGC revolving funds to which premium receipts are credited, relative to the Corporation's trust funds, which hold the assets of terminated pension plans and employer liability payments.

Based on these two Board decisions, the Corporation is developing a competitive bidding system for its annuity purchases. The Corporation has revised its FY 1978 program plan to allow for the purchase of $5 million in annuities per quarter starting in July, 1978, and requested FY 1979 budget authority to purchase $20 million in annuities. Based on application of the proportional rule discussed previously, the Corporation estimates that 60% of its benefit payments will be financed from plan assets and employer liability payments. Thus, provision has been made for the trust funds to reimburse the revolving funds $3 million in FY 1978 and $12 million in FY 1979. As a result, the net disbursement from the revolving funds for annuity purchases will be only $2 million in FY 1978 and $8 million in FY 1979.

The timing of PBGC's annuity-purchase decisions will depend upon whether the rate of return implicit in the quoted price for annuities is greater than the anticipated rate on the Corporation's other investments. These expectations are reflected in the rates used for valuing benefits in terminated plans, determining guaranteed benefits and assessing employer liability. This rate-of-return comparison will take into account the fact that the Corporation's revolving fund assets are invested in securities issued or guaranteed by the U.S. Government, whereas trust fund assets may be invested

in high-grade equities and private sector fixed income securities (e.g., corporate bonds). Other factors that will be considered include the potential for administrative cost savings if benefits are paid by the carriers, and the impact of transferring the risk of mortality losses to the carriers.

The Corporation is more likely to buy immediate annuities to cover the benefits of retirees, rather than deferred annuities to pay benefits to people who will retire in the future, because better rates are likely to be available for immediate annuities. In addition, it should be recognized that the Corporation only expects to buy annuities to pay certain types of benefits, since some benefits guaranteed by the PBGC are not currently provided by private carriers, or are only available commerically on a limited basis.

The Committee should be aware that whether the Corporation will purchase annuities at a particular time will depend upon whether carriers are quoting attractive prices. Prices are heavily influenced by the "capacity" situation in the insurance industry, which is frequently affected by economic factors. The availability of annuity contracts is influenced considerably by the demand for borrowed funds. When loan demand is strong, insurance companies are able to invest income from the sale of annuities at a favorable rate. When loan demand is soft, however, carriers may be unable to find investments with adequate yields at an acceptable level of risk.

An active annuity market requires an expanding economy with a brisk demand for medium and long-term borrowed funds. During economic slowdowns or early stages of recovery in which firms are repaying loans and financing operations and/or expansion with corporate funds, insurance companies may have an excess of lendable funds, and therefore do not seek additional funds through the sale of attractively-priced annuities.

Insurance companies are required by state law to establish reserves to support each annuity sold. Generally, reserve requirements reflect conservative investment return assumptions, e.g., from 3-1/2% to 6%. To compete for annuity business, however, insurance carriers must reflect expected actual investment yields in the purchase price or premium charged for their annuities. When expected yields exceed statutory assumptions, annuity premiums may fall below levels which satisfy the statutory reserve requirement. To maintain their statutory reserves, the carriers must reduce surplus funds or retained earnings. Significant reductions could jeopardize a carrier's ability to sell other products, to hold or attract capital or to pay dividends. Consequently, insurance companies restrict the volume of annuities that they make available when interest rates are high.

DEPARTMENT OF LABOR

EMPLOYMENT STANDARDS ADMINISTRATION

STATEMENT OF DONALD E. ELISBURG, ASSISTANT SECRETARY FOR EMPLOYMENT STANDARDS

ACCOMPANIED BY:

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SALARIES AND EXPENSE ACCOUNT

Senator EAGLETON. We are going to employment standards, Mr. Elisburg, folks. I have got the sheet, so I have your names. Start off, Mr. Secretary.

Mr. ELISBURG. Senator, we have submitted a formal statement for the record. In the interest of time, I will summarize my oral presentation for you.

Senator EAGLETON. Please.

Mr. ELISBURG. We are discussing the fiscal year 1979 salaries and expense account, including the proposed fiscal year 1978 supplemental and the Special Benefits Account for the Employment Standards Administration.

FISCAL YEAR 1978 SUPPLEMENTAL

Senator EAGLETON. Why don't you, if you can, give me just a few words on the supplemental. Then we will move on.

Mr. ELISBURG. The supplemental question provides resources to meet workloads generated by the 1977 amendments to the Fair Labor Standards Act. The proposal is for 100 positions, at a cost of $940,000 in fiscal year 1978. The thrust of the supplemental is

based on the new amendments that were effective November 1, 1977. The Department will have additional workload, we expect an increase of——

Senator EAGLETON. Go ahead.

Mr. ELISBURG. We expect, as a result of the new amendments, about a 20-percent increase in our complaint workload. About 12,000 to 14,000 additional complaints per year will be filed and that's the basis upon which we have submitted the supplemental for the 100 positions.

The only other supplemental we have pending is relating to the undocumented workers on which we have previously testified. That is tied up, I guess, in a conference.

Senator EAGLETON. Let me ask a couple questions on the supplemental. Explain, specifically, why the 100 new staff are required in a supplemental for the enforcement of fair labor standards provision as a result of the minimum wage law?

Mr. ELISBURG. When we have amendments, the number of complaints filed, alleging violations of the basic minimum wage and overtime standards, can be expected to increase approximately 20 percent. This estimate is based on our experience after previous amendments.

Senator EAGLETON. When we up the minimum wage, and some people don't think much of that increase, and try to fool around with it?

Mr. ELISBURG. Right. You have, on the order of 5 million workers who will be affected by the law's changes. There are new employers covered, who, previously, may have had their wages at the minimum. Some of these don't get the message that we are trying to deliver about the effects of the new minimum wages, and so, we get a tremendous new complaint load from workers who are not receiving the minimum, and not receiving comparable overtime.

Senator EAGLETON. I know we raised the rates substantially. $2.65, then increments thereafter.

Mr. ELISBURG. Right.

Senator EAGLETON. Did we also broaden widely the scope of employees that were not heretofore covered, that were brought in?

Mr. ELISBURG. We broadened the scope, not so much in adding new groups of people directly through coverage, but by limiting and reducing some of the exemptions for overtime. That expands our universe of coverage. Also when you raise the minimum wage from $2.30 to $2.65, for example, you bring in additional workers who may have been floating along at $2.40 an hour, their wages go to $2.65 an hour. That can generate the complaint load.

Senator EAGLETON. I see.

Mr. ELISBURG. And that is the basis for the supplemental in question. We have furnished to most of American industry posters explaining the new wage levels. I thought I would leave with the committee a self-mailer that is going out by Internal Revenue Service to some 6 million establishments around March 1, which will lay out in detail what their obligations are under the law.

FECA POSITIONS

Senator EAGLETON. Last year, we gave you 123 new positions to

reduce the backlog of claims under the Federal Employees Compensation Act.

Mr. ELISBURG. Right.

Senator EAGLETON. You filled those, and I am specifically looking at an article here of the Washington Star, December 27, 1977, headline, "It Will Take a Lot to Cure the Ills of Labor's Troubled Claims Agency."

Mr. ELISBURG. I will agree with that, Senator.

Senator EAGLETON. OK. Tell us, have you filled the positions and what the troubles are.

Mr. ELISBURG. Well, with respect to the 123 positions that we were allocated, between directly hiring and detailing people with respect to our investigations unit, we probably have about 110 of them filled.

Senator EAGLETON. But that 110 isn't all new.

Mr. ELISBURG. These are the new people. We have added 68 claims examiners. We are adding 14 physicians around the country. We are adding 20 investigators for a fraud unit which we have set up. The remainder are support personnel.

Virtually all the claims examiners are now on board undergoing training. In the investigations unit, because recruiting criminal type investigators is a little more complex, we have detailed people from other agencies to help us get that unit started.

Senator EAGLETON. I have a question on investigation, then I want to get into the article.

Mr. ELISBURG. Yes.

Senator EAGLETON. Is there some systematized way that investigators can be trained to cross agency lines?

Now, I know each FBI guy needs considerably different training than an IRS agent, and IRS is different than Secret Service. I know there are great differences in techniques.

In IRS, you need skills with accounting, even FBI, some of their agents of necessity have to have some skills in accounting. But how do you find investigators? You are not primarily a law enforcement agency with a badge, the way some of these others are.

Mr. ELISBURG. When you look at our wage and hour division, and our contract compliance operation, we are, indeed, a law enforcement agency.

Senator EAGLETON. Well, we don't think of you primarily as lawmen like the FBI.

Mr. ELISBURG. Some of our investigators may think of themselves that way.

But, to respond to your question, Senator, I have had experience in my career in the Government in dealing with a number of investigative agencies, including work in the Senate with Senate investigations.

I have found, basically, that if you train an investigator properly, a good investigator can work in almost any field, both civil and criminal. For example, within the Department most investigative work is civil. When the big union election cases have come up, the steelworkers' was the most recent case, the wage and hour division was asked to provide personnel to work on the investigations. My understanding is that they did fine. They previously had worked on the mineworkers investigations.

We are setting up our own fraud investigations unit. We are working with people from the Postal Service. We have had people

on detail from the Alcohol, Tobacco, and Firearms Division. Our chief investigator is coming from LMSA.

We are using, for the time being, as the prime corps of our investigative unit people detailed from the wage and hour division. They are all doing fine.

From my own personal experience, the basic evidentiary and factgathering, interviewing witnesses, putting together a case, and the things that are necessary are functions that are very much compatible, regardless.

Obviously, there are differences in procedures, and there are certainly differences that you have to learn between what you need for a civil case, what you need for a criminal case.

Senator EAGLETON. There is no cross departmental kind of a clearinghouse and training mechanism? Each department, by and large, has to sort of fend for itself, and find its own talent, and train its own talent?

Mr. ELISBURG. That is right. For instance, our wage and hour division which has over 1,100 compliance officers conducts its own training programs.

FECA PROGRAM

Senator EAGLETON. Tell me about this article. "It Will Take a Lot to Cure the Ills of Labor's Troubled Claims Agency."

Mr. ELISBURG. Well, a year ago, the administration of the Federal Employees Compensation Act represented a very troubled program. In the last year, we have made many sweeping changes to strengthen management capabilities, and to institute what I call the systems necessary for effective operation of that program.

When we came in, we found an agency that had 200,000 injuries a year reported to it, over 35,000 to 40,000 actual claims and expending $600 million to $700 million in benefits. It had virtually no real operational system, no formal training of examiners, and no automatic data processing support.

Everybody was still using green eyeshades and celluloid collars. There was no staff training. We had a number of managers within the system who were experts in compensation and failures as managers.

We had a lot of very dedicated people who were trying to process a workload; and simply no modern system with which to do it.

In the last year, we have moved new managers into almost 70 percent of our senior management jobs around the country. We have hired and formally trained the claims examiners who had never had formal training. We have the beginnings, that is, the first stages of an automatic data processing system now installed in each of our offices around the country. We have opened up new offices to serve the regional needs in Dallas and Atlanta. Those are major governmental centers. Our Atlanta operation was being run out of Jacksonville. The Dallas operation was being run out of New Orleans. The span of control was very difficult.

We instituted performance standards and quality control within the system. We have new medical evaluations and standards. With the supplemental we have the ability to hire full-time doctors instead of part-time individuals. Those positions will be of tremendous help to us. As I mentioned we have also set up an investigations unit.

Senator EAGLETON. How many full time doctors do you have?

Mr. ELISBURG. We will have 14. We have five now, and a number of part time ones. One full-time doctor in each district office is the goal.

Senator EAGLETON. Who typically are these? Are these older doctors who have given up in private practice for whatever reason, or are they younger doctors coming out of medical school, or what?

Mr. ELISBURG. Our experience has been typically it's been older doctors, who are retired from practice, and who do not want to work a full period of time. The difficulty with that, of course, is not their expertise, but that we need full-time physicians, because there is a full-time workload.

We are exploring with the Public Health Service, the possibility of obtaining younger doctors coming out of schools, people who would be willing to work in this very interesting area.

Senator EAGLETON. What can you pay a full-time doctor?

Mr. ELISBURG. We pay now, classified at the grade 14 rate, about $35,000 a year.

Senator EAGLETON. He's hired as a full-time person?

Mr. ELISBURG. Right. $35,000, grade 14. We are trying to get full-time physicians, if possible.

Senator EAGLETON. What were the benefits, what is your most recent, have you got figures for calendar 1977 or fiscal 1977? How many millions in claims were paid out, in whatever year period of time?

Mr. ELISBURG. Within the last fiscal year we will have paid out about $564 million in benefits.

Senator EAGLETON. Have you got a little sheet that shows how that has been going on year by year?

Mr. ELISBURG. It has been going up. We will furnish it for the record, but I would say in the last 10 years, it's probably increased tenfold.

Senator EAGLETON. I inquired about this, was this where the guy was playing golf, is that the one a year ago, the air controller?

Mr. ELISBURG. That's the one. That greeted me first day on the job.

Senator EAGLETON. They say $564 million, we have some sheets that say $765 million.

Mr. DIGREGORIO. $765 million is our projected figure——

Senator EAGLETON. You have $700 million in the fiscal year 1978 column.

Mr. MUMFORD. That's correct.

Senator EAGLETON. In 1978 we anticipate being $700 million, and in 1979, $735 million?

Mr. MUMFORD. Yes, sir.

Senator EAGLETON. This is really mighty big business; isn't it?

Mr. ELISBURG. Yes, sir.

Senator EAGLETON. It is like the pension things a little bit, when you get into some of these things, oh, well, you know, it is not going to be very, very huge.

COMPENSATION RATES

Mr. ELISBURG. It does come, in fact, because compensation rates, as you know, are tied to salary levels. As the base of the Federal salaries rises, the amount of compensation, even though it is the same percentage, goes up with it. In 1971, we were dealing with

approximately $177 million in benefits through the various funds. In fiscal 1979 we are talking about $735 million.

Senator EAGLETON. Yes.

Mr. ELISBURG. In the middle or late 1960's, such costs were around $100 million. So it's been a tremendous increase.

Senator EAGLETON. Here is a quote from the same article: "There is also criticism from Congressmen that the Agency is too liberal in approving the claims it finally processes. The approval rate was approximately 90 percent, but the criticism has resulted in the Agency's turning down more claims than in the past."

What do they mean here, "approval rate was 90 percent"? You mean you approved top-dollar payments in 90 percent of the cases?

Mr. ELISBURG. Approved the claim in 90 percent of the cases.

Senator EAGLETON. You took the doctors' findings of the injured party?

Mr. ELISBURG. Right.

Senator EAGLETON. Have you either set up, are you contemplating setting up, obviously, you have done some work on this, the Dallas office, hiring full-time doctors, and what have you. That's good. Have you been at it long enough, Mr. Elisburg, now that you are to a point where you are going to make some legislative recommendations?

Do you think the plan itself is too generous? I mean, I am sure you are concerned with those figures, from $171 million to $700 million in about 7 years.

Mr. ELISBURG. Senator, let me answer it two different ways. With respect to the benefit levels that we have, the benefits under the Federal Employees Compensation Act are comparable to those that have been recommended as the basic reform benefits for any workers' compensation system.

They are similar to those under the Longshore Act, and they are in line with those that were recommended by the National Commission on Workers' Compensation that reported in 1972.

So the basic benefit problem is one that, if you start talking about reducing that level of benefits, you are really talking about whether our entire Workers' Compensation system is a problem.

Senator EAGLETON. Yes.

Mr. ELISBURG. That is something that we are separately looking at and maybe—there are obviously a lot of legislative considerations and possibilities within Congress.

With respect to other things we are doing within the Department to see whether some legislation is needed, it has been our feeling that we needed to get our system under control. It is unrealistic to talk about cutting back benefits for Federal workers when the basic problem is that Federal workers can't get their claims handled in a 2-year period.

We must get to a point where the Federal employee who is injured, be it someone in our agency or another agency, or a congressional employee, is getting their claim processed in a reasonable time. Our own reasonable estimate is that a traumatic claim ought to be processed within 90 days.

If it is a nontraumatic claim, that is, the occupational disease kind of thing, it ought to be processed through the system in 6 months. When we reach those standards, we will be in a position to see what kind of claims load we really have, what are some of the problems, and what do we need to recommend legislation.

Senator EAGLETON. I think that makes some sense, but I could work your backlog out for you very quickly. I could just stamp everything approved. I could approve them in 30 days.

The question is, it is important to get them processed in a timely fashion, but is there enough monitoring of claims on a random check basis or whatever would be a good—I am not a systems expert, but whatever a good systems expert would——

Mr. ELISBURG. I cannot say that in the past there was. I can say that there will be. We have recently completed the first revision of a formal manual of what the claims examiners are supposed to do, that is now out in the field for people to work with.

MEDICAL STANDARDS AND EVALUATIONS

We have just completed a set of medical standards and medical evaluations. This is the first time that there is a measuring stick for claims examiners to judge what kind of a case are they deciding, and whether it is within the tolerance limits of what it is supposed to be.

Senator EAGLETON. How many claims are filed a year, roughly?

Mr. ELISBURG. We expect 35,000 actual claims in fiscal year 1979.

Senator EAGLETON. Some will be small amounts of money, some will be rather large.

Mr. ELISBURG. They will range from routine broken limbs to asbestos cases and death claims.

I forget the actual number. However, just the grain elevator explosions wound up with maybe 20 Federal employee compensation claims because of the Federal grain inspectors that were killed.

Senator EAGLETON. We will get into that a little later with Mrs. Bingham.

Mr. ELISBURG. So there are a number of Federal employee death cases, from air crashes, things like that.

Senator EAGLETON. Get me, say, from 1970 to 1978 dollars in claims paid out, the 100 and some up to 700, and give me the escalation number of claims filed, or whatever the appropriate statistic is.

[The information follows:]

Federal Employees Compensation Act Program—Employment Standards Administration

	Number of claims received	Number of claims paid [1]	Total obligations (thousands)
Fiscal year:			
1971	20,987	136,000	$163,215
1972	26,774	129,000	190,024
1973	28,344	130,000	217,770
1974	[2] 31,025	149,000	270,676
1975	[2] 35,615	171,000	367,544
1976	[2] 40,324	206,000	477,387
Transition quarter	[2] 10,027	52,000	124,575
1977	[2] 30,301	215,000	552,085

[1] Cases paid either medical or compensation benefits, or both during the fiscal year.

[2] Excludes payments made under continuation of pay provisions of section 11 of the Federal Employees' Compensation Act, as amended.

CLAIMS

Mr. ELISBURG. The claims in the 10-year period have probably doubled.

Senator EAGLETON. Doubled. Well, I think you are proceeding on it well, and I think you are very candid.

Until you figure you can get your handle on it, it's pretty hard maybe to say whether it's too lavish or not. Nobody's trying to skip the injured people. If they have been injured in public services, then they ought to be covered just the way if you are injured working for a private employer. But those figures are as large as are so many figures.

Mr. ELISBURG. They are enormous, Senator. We have done two things that I think will help cut back on the costs. We have been talking with the agencies who must actually pay these expenses. One of the things we are really trying to improve and upgrade is our rehabilitation services. This is an effort to get somebody back on the job once they are off, either to get their same job back or a different job. In any case, it is to get them rehabilitated to get back on the employment rolls. That is a very critical matter and can save us millions of dollars.

The second thing we have done is we are talking to some agencies about job changes; that is, light duty work or some other kind of work for employees who are off duty. In places like the Postal Service, you may have severe back strains or auto accidents involved where there is an ability to move an employee to a different job with lighter duties.

The agencies have not spent a lot of effort in that regard. Those are two things that really can cut back on the dollars you pay out.

Senator EAGLETON. Sure.

Mr. ELISBURG. We are trying, for instance, to get rehabilitation specialists into a serious case early. When you do, the amount of money saved in medical bills can be phenomenal. Someone with a serious back injury might wind up with a few thousand dollars in medical bills—if you avoid them becoming paralyzed by proper rehabilitation efforts, proper medical treatment. You can save over half a million to $1 million in medical bills on that claim alone. So there are lots of pieces to this system.

Senator EAGLETON. I understand.

Mr. ELISBURG. But the way we have approached it is that it was a system, or a system defect that had to be cured as a system.

HEARING LOSS TASK FORCE

Senator EAGLETON. Here's a question that pertains in part, I guess to Seattle. The Nation's Capital has a successful experimental office, part of District 25, specializing in processing hearing loss claims for workers' compensation which is effectively—has apparently effectively eliminated backlogs.

Why don't you establish a hearing loss claim office in other parts of the country?

Mr. ELISBURG. Actually, our hearing loss task force is dealing with cases from all over the country. Where we get a big backlog of hearing loss claims, we ship them into the Washington task force operation.

I guess it's more a question of expertise and numbers as to whether you set up centers for this. This takes additional people and resources that we don't really have, but the idea of the task force group is one that we think is sound. We are giving serious consideration to doing the same kind of thing for instance, with large numbers of asbestos claims that are going to start to come in because of the shipyard workers.

We have been experimenting in one region, the Chicago regional office, with claims specialization. Instead of having your journeyperson claims examiner handle whatever comes forward, we have been experimenting with particular examiners or groups of examiners processing different kinds of claims. So that there is someone who deals with hearing, someone who deals with occupational disease, someone who deals with other kinds of traumatic injuries to see if we can get faster case processing and more quality control in what we are doing.

Senator EAGLETON. With hearing loss, does this office in Washington in essence process hearing loss claims for the whole country?

Mr. ELISBURG. Yes.

Mr. MUMFORD. Most of the offices, yes, sir.

Senator EAGLETON. I got the impression that if I had a hearing loss claim and I was a worker in this area, for some reason my case would be processed more expeditiously than if I were a worker out on the far west coast.

Mr. ELISBURG. Not necessarily.

Senator EAGLETON. It shouldn't be that way.

Mr. MUMFORD. The Seattle office has continued to handle its hearing loss cases because it has not had that many and has been able to maintain them on a fairly current basis.

The high incidence of hearing loss claims has been from the Eastern and Northeastern port cities where there was a lot of shipbuilding during the Second World War and we have tended to handle those on a centralized basis.

Mr. ELISBURG. For instance, in Kansas City where we have an office now that is functioning quite well and under excellent management, we haven't had the need to transfer cases out because they have been able to handle all of their cases in a reasonable time period.

The workload is such that there hasn't been that kind of an inventory growth.

LEGAL FEES

Senator EAGLETON. There is a question on legal fees for workmen's compensation. Last year the committee heard complaints that it took 1 year to 18 months for the Labor Department to settle attorneys' fees connected with workers' compensation cases.

Does your budget contain sufficient staff resources to alleviate this problem?

Mr. ELISBURG. I believe so. I believe the legal fees problem is no different than the rest of the problems within the system.

We have been concerned and we continue to be concerned when we begin to see a particular attorney or group of attorneys have

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massive numbers of cases. We begin to check the volume and the size of the legal fees.

We have had some litigation on that and we think we are getting it sorted out.

Senator EAGLETON. Maybe I am naive. What is your suspicion? I am a nonpracticing lawyer so I have no vested interest in this.

Mr. ELISBURG. I don't either anymore. But if you begin to look at particular areas of the country where a lawyer suddenly seems to have 300 claims and large legal fees come in, you then start to look at whether the fees are excessive. Are you in effect creating litigation where it is not necessary?

Are there other ways to be dealing with these employees' claims so that they don't have to go to an attorney?

Senator EAGLETON. You have no discretion, though, do you, in terms of the legal fee involved, or do you?

Mr. ELISBURG. We do have discretion. We can set the fee.

Senator EAGLETON. Oh, you do? Within certain limits?

Mr. ELISBURG. Yes, sir.

Senator EAGLETON. Are most fees a percentage?

Mr. ELISBURG. No, well——

Mr. HARTMAN. No, they are not a percentage. It is predicated upon time as contrasted with the discussion we had a few years ago of a flat 25 percent in Missouri.

Senator EAGLETON. Yes.

Mr. HARTMAN. There is no provision for a flat percentage. Time spent, and as a matter of fact, the circuit courts have now pretty well, in longshore cases, for example, prescribed the manner in which a fee bill must be submitted.

It cannot be 27 hours, $1,250. Rather, an itemized statement is required as is approved by the claimant.

Senator EAGLETON. When you have it all broken down in the form that is prescribed, how do you check on that? Is it pretty much take the guy's word for it?

Mr. HARTMAN. Yes. The disagreement, if any, in many instances really revolves around the hourly rate.

Senator EAGLETON. But if he says, I put 30 hours in on this case, and you say, oh, now, come now, this is a case that isn't a 30-hour case. And he says, well, I did.

Mr. HARTMAN. Then you have to evaluate the complexity of that case. In some instances this may be the first type case that the individual has been in, so he is charging for a current updating of his education.

Senator EAGLETON. Certainly.

Mr. HARTMAN. In a field of the law in which he has had limited experience.

Senator EAGLETON. That is right.

FEDERAL CONTRACT COMPLIANCE

What consideration has been given to the reconstitution of the Office of Federal Contract Compliance programs within the Department of Labor as an autonomous Federal contract compliance administration under the leadership of an assistant secretary?

Mr. ELISBURG. Well, I don't know that we have addressed that, Senator. Our immediate problem is to get control of the contract

compliance agencies. In the recommendation we have forwarded, our view is that the compliance agencies ought to be consolidated within the Department of Labor—so that we have direct enforcement responsibility for Federal contracts.

Senator EAGLETON. What is involved here?

Mr. ELISBURG. Under the existing——

Senator EAGLETON. I ought to know more about the background of this. I know there is something sticky over there, and I want——

Mr. ELISBURG. Well, under the existing Executive order program, we have now 11 compliance agencies.

We act really as a manager of the contract compliance program. The authority and responsibility for carrying out contract compliance is done through personnel who are working for the compliance agencies. They do the compliance reviews and they have the initial responsibility for securing compliance with this program.

Our view is that this has not worked, it has been in existence since 1965. That diffusion of responsibility within the agencies themselves sometimes—creates a conflict of interest and reluctance to actively pursue compliance. Their job is procure things and get Government contracts.

Our job is to secure equal employment opportunity and require affirmative action.

Because of that kind of conflict, the level of compliance and control of the program is not what we want. It is our view that the total program would be best administered within the Department. Our wage and hour division has a similar responsibility for certain Government construction contracts under the Davis-Bacon Act, although we do have contracting authority problems there too.

The view is that we can have a much stronger enforcement program within the Department. That is really the planning that we are initiating.

REORGANIZATION

There has been no decision from the President yet on any of the EEO reorganization proposals. So I can't say whether that proposal to consolidate the contract compliance program is going to come to pass or something else emerges.

On the assumption that it might, we are undertaking a number of planning steps to run a program like that with 1,500 or so compliance officers within the Department, as another law enforcement program.

The local of such a program within the Department is one that I think one would have to see running before one sees where you put it.

We have very large agencies now, in the Department the Employment Standards Administration, LMSA, the Employment and Training Administration. There is always the organizational case to be made for independent operation versus being under some other operation.

What I can tell you is that in the last——

Senator EAGLETON. Status can be very important.

Mr. ELISBURG. It sure can. There is certainly that factor.

On the other hand, we also emphasize that the importance is, what result did you get? What kind of enforcement can you get?

What kind of enforcement program do you have? What kind of resources do you commit to it? What kind of leadership do you have? Where are the compliance efforts targeted?

We think we have done a substantial job in the contract compliance area. I think you have met our director, Mr. Rougeau, of the OFCCP. In the last 7 or 8 months, really 10 months, we have improved the image of the office; we have brought more cases, we have instituted new compliance procedures in the handicapped program. We have done a lot of things that needed to be done.

We have also done an internal evaluation to see how should this program really be run in the future.

We have explored changes in regulations, operating procedures, and manuals; not unlike the same system evaluation done in our OWCP program.

Does that sufficiently beg the question for you?

Senator EAGLETON. That begs it pretty good.

BLACK LUNG POSITIONS

An earlier witness, I mentioned in passing, black lung. I have a couple of questions from Senator Byrd. What progress has been made in filling the 100 new permanent positions for black lung claims, as provided by Congress in the fiscal year 1978 budget?

Mr. ELISBURG. We have either on board or committed, about 30 of the positions. We have the rest of the positions in various stages of what you do to get people on board. This appropriation did not clear until December.

Senator EAGLETON. Yes.

Mr. ELISBURG. One of the things that we are doing with this initial group is to use it as the core for the structure of what we will need when we get the new black lung law that is expected to pass the Congress this week or next. We expect the new law is going to vastly expand the black lung program. I would imagine we at some point may be submitting a supplemental for that particular program. But——

Senator EAGLETON. So the backlog may be for a while, maybe is going to get worse, rather than better?

Mr. ELISBURG. What we are trying to do is anticipate the fact that we are going to be opening field offices immediately and doing regionalization work with this program.

That is why we are trying to place some of these 100 people, as the core group for that operation, in field offices. That way everything doesn't stand still for 6 months before we get started.

Senator EAGLETON. If you wouldn't mind, give me a similar set of figures I asked you on workmens' compensation, dollar increases through the years, claims increases, go back to, when did we pass the first black lung bill, 1969, 1970? Millions in claims paid out 1969 through 1977. What your complete figures are. Number of claims, 5,000 up to 50,000, or whatever.

[The information follows:]

Black Lung Program—Employment Standards Administration

	Number of claims received	Number of claims approved	Total obligations (thousands)
Fiscal year:			
1974	36,856	377	$1,606
1975	29,820	1,187	7,172
1976	26,051	1,669	13,879
Transition quarter	6,302	479	6,132
1977	19,606	1,634	19,253
Total	118,635	5,346	48,042

Social Security Administration [1]

	Number of claims received	Number of claims paid	Total obligations (thousands)
Fiscal year:			
1970	172,000	11,500	$7,138
1971	129,000	124,500	297,213
1972	86,200	39,100	428,257
1973	129,800	126,400	925,140
1974	39,200	63,500	1,000,114
1975	[2] 4,500	[2] 13,800	943,873
1976	[2] 800	[2] 9,900	970,658
Transition quarter and fiscal year 1977	[2] 23,100	[2] 24,600	1,175,106
Total	584,600	413,300	5,747,499

[1] Information furnished by the Social Security Administration budget office.
[2] Includes dependents who automatically became entitled to survivor benefits.

BLACK LUNG PROGRAM

Mr. ELISBURG. I might mention that in the black lung program we have had some of the same problems that we have had with the Federal employees' compensation program. We have undertaken major revisions to the current system as well as to do some very detailed planning on what would happen when we got a new black lung bill. We are expecting to have to process something in excess of 425,000 claims under the new bill over a period of 3 to 5 years. That is going to be a big load on the Department.

Senator EAGLETON. I saw a piece the other night on one of the nightly television shows dealing with the coal strike. They said, well, you know, obviously, one of the outfalls of the strike is termination of health benefits of retired persons. We saw three or four fellows on the air machine, you know.

Of course, we have changed the burden of proof from time to time. Refresh my memory. What does a widow have to show about her deceased husband, insofar as——

Mr. ELISBURG. That has been open to some question, which is why the statute is being changed. Essentially, affidavit proof and some kind of evidence of employment and medical disability.

Senator EAGLETON. Let's say she files the affidavit, "My husband worked from 1932 to 1954 with the Jones Coal Co." Now does she file an affidavit as to her description of the coughing and the breathing problems he had?

Mr. ELISBURG. Right.

Senator EAGLETON. Shortness of breath?
Mr. ELISBURG. Right.
Senator EAGLETON. Inability to run up and down stairs?
Mr. ELISBURG. Right.
Senator EAGLETON. And does not have to have supporting medical data?
Mr. ELISBURG. If it is not there.
Senator EAGLETON. If it is not available. We have found a lot of times there simply wasn't any data there.
Mr. HARTMAN. Death certificates, Senator, frequently, as you are aware, list three or four or five causes. It depends upon at the time of occurrence, the particular physician, his reaction.
Senator EAGLETON. Yes.
Mr. HARTMAN. There is no statutory benefit level for workmens' compensation in the pneumoconiosis field.
It was a new development. Today there may be references, item 3, contributing cause, pulmonary impairment. That may be very well—may well become the top level today, if it were evaluated in the context of current statutes and rules and regulations.
Senator EAGLETON. I know this is more costly, but by God, I will tell you, I have seen some victims of pneumoconiosis and it ain't no fun. There may be some ripoff artists involved in this. I guess any time you have a big program, some people are going to rip it off.
Mr. ELISBURG. We have done the same things to insure quality control in the claims process through better control of medical standards as we did in the Federal employees program. The training of claims examiners and all of the things necessary to try to move the claims along have been initiated. We had, you know, something like a 630-day average to get a black lung claim to an initial determination. We think we have cut that in half now. We expect to do even better in the next few months.
Senator EAGLETON. It got as high as 630 days?
Mr. ELISBURG. Yes, sir. I just considered that intolerable.
Senator EAGLETON. Yes.
Mr. ELISBURG. In effect, it was nullification of the law. We have had some substantial improvement in the last year in that operation.

QUESTIONS SUBMITTED BY SENATOR EAGLETON

Senator EAGLETON. Mr. Elisburg, we do have again some other questions, and we will submit them to you and, hopefully, you will supply answers for the record.
Mr. ELISBURG. Thank you.
[CLERK'S NOTE.—The justification material for this account appears in the House fiscal year 1979 Labor-HEW Appropriations Subcommittee hearing record.]
[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

Questions Submitted by Senator Eagleton

AGE DISCRIMINATION

Question: An August, 1977 study on Age Discrimination in Older Persons prepared by the Center for Advanced Study at the University of Illinois at Urbana-Champaign and the Illinois Department of Aging indicates that about 4.8 percent of the Wage and Hour Division's total budget is allocated to Age Discrimination in Employment activities.

It further points out that there is a great backlog of Age Discrimination cases, about 2,325 in February 1976, an increase of almost 300 percent since the end of fiscal year 1973.

Although the authorization for Age Discrimination in Employment Act funding is $5 million, current appropriations and the fiscal year 1979 budget request are less than $3 million.

What steps are being taken to reduce the backlog of age discrimination cases?

Answer: For the past two years the end of fiscal year inventory for age discrimination complaints against particular establishments has stabilized at about 2100. As of December 1977, the number is 2,006. On the other hand, the age discrimination complaint inflow against individual establishments, while increasing substantially over the level of earlier years has stabilized in the 5,000-5,500 range during the last 3 fiscal years.

The ability to handle this sustained period of high level of complaints without increases in complaint inventory is attributed to an improved complaint processing system. Clarification to the field staff about the processing of complaints together with better staff training have resulted in more sophisticated case handling and in improved decisions at the local level as to whether a complaint is valid and, if so, whether it is better handled by conciliation, limited investigation or full investigation. Thus, inventory has been effectively controlled while increasing emphasis on large pattern and practice cases.

Question: What could you accomplish if the full $5 million authorization level for age discrimination enforcement activities was appropriated?

Answer: The Employment Standards Administration (ESA) position is that the current appropriation is adequate and that funding at the current level will allow continuing of the present enforcement level as well as emphasing large pattern and practice cases. For example, in investigating cases covering 206 establishments in fiscal year 1977, more than 13,000 investigative hours were expended by compliance officers prior to referral to the Solicitor's office. These litigation cases accounted for 72% or $6.4 million

of the total damages due disclosed by all investigations in the fiscal year.

It is expected that the current inventory of complaints will decrease as efficiency in the processing of complaints is improved. ESA believes this can be done without any sacrifice to the program for handling large pattern and practice cases.

CONSOLIDATION

Question: What has been the extent of the consolidation of compliance agencies which you began to undertake in September of 1976?

Answer: Effective October 1, 1977, the number of Federal agencies with compliance responsibility under E.O. 11246 was reduced from 16 to 11. That action facilitated better administration of the program. As you know, the President's Reorganization Task Force is considering a number of alternatives to the present organizational arrangement of equal opportunity programs. In that context, the Department has proposed the full consolidation of Executive Order enforcement responsibility into the Department of Labor. It is our view that this is an essential element to ensuring operational effectiveness and accountability for the program. It should be noted that the Administration has not made a decision on the reorganization proposals.

VETERANS AND HANDICAPPED

Question: What has been done to establish reasonable goals, timetables, and evaluation procedures regarding the affirmative action requirements as they apply to veterans and handicapped workers?

Answer: We have found it is not feasible to establish goals and timetables requirements under Section 402 of the Vietnam Era Veterans Readjustment Assistance Act and Section 503 of the Rehabilitation Act. However, uniform procedures and requirements for targeting and conducting comprehensive compliance reviews under these programs have been developed and are being implemented at this time.

The Office of Federal Contract Compliance Programs (OFCCP) Regional Offices are currently carrying out a series of directed reviews. We expect that establishing a comprehensive compliance review effort in conjunction with our ongoing complaint investigation program will significantly reduce complaint backlogs and greatly enhance employment opportunities for Vietnam Era and disabled veterans as well as all handicapped workers.

TASK FORCE REPORT

Question: What has been your reaction to the special Federal Contract Compliance task force report issued in September regarding its recommendation for a reevaluation of the use of goals, timetables, and other affirmative action requirements?

Answer: The Task Force Report provides a comprehensive analysis

of the critical strengths and weaknesses of the contract compliance program. Some recommendations are already being implemented. For example: New regulations for the construction industry are being readied for publication as final rulemaking; a pilot project has been initiated with the Employment and Training Administration to match the employment opportunities generated and identified through contract compliance activity with the Department's employment and training program resources; and we have begun the development of a comprehensive management information system to provide data for making realistic assessments of program impact and tracking complaints, as well as filling other critical information needs.

UPGRADING FEDERAL COMPLIANCE OFFICE

Question: What consideration has been given to the reconstitution of the Office of Federal Contract Compliance Programs within the Department of Labor as an autonomous Federal Contract Compliance Administration under the leadership of an Assistant Secretary of Labor?

Answer: We have concentrated our efforts in strengthening the enforcement activity under the Contract Compliance Programs and correcting regulatory and procedural problems. As you know, the Administration is considering alternative organization structures on a government-wide basis for the conduct of equal employment opportunity programs. The Department has proposed that the contract compliance program be fully consolidated within the Department of Labor. Although the President has not as yet issued a decision on a reorganization, Employment Standards Administration has initiated the planning process necessary to implement a consolidated program. Our first concerns must be to build the viable enforcement organization. Of course as part of the review of the consolidation process, the Department will look at organizational location. We also would note that the Department is looking at its entire organization and structure as part of a general review.

MEASURING SUCCESS

Question: What has been done in order that we might get a better handle on the success of Federal Contract Compliance efforts?

Answer: The Department does not have, as of this moment, a comprehensive information system to provide reliable data for assessing program impact. However, we have contracted with one of the most respected management firms, Peat, Marwick, and Mitchell, to provide a thorough information needs assessment and we expect to move quickly into the design and implementation phases. Without such a system, a definitive "handle" is difficult.

The primary objective of this effort are to establish a reliable data base against which real program performance and impact can be measured and to revise contractor record keeping and reporting requirements to reduce the paperwork burden and at the same time collect usable, meaningful data.

Such information as is available to this Department reflects the significant efforts that the Department is making to strengthen the enforcement of the Executive Order are making an impact. We are confident that we will continue to make further progress.

PAYING LEGAL FEES

Question: Last year the Committee heard complaints that it took a year to 18 months for the Department of Labor to settle attorney's fees connected with Workers' Compensation cases. Does your budget contain sufficient staff resources to alleviate this problem?

Answer: Yes. Resources are adequate provided that specified procedures are followed by attorneys and employee claimants.

Question: What is the waiting time to settle legal fees in the Washington, D.C. District 25 Office specializing in hearing loss claims?

Answer: Waiting time varies from case to case. We have been very much aware of the delays associated with processing representative fee requests under the Federal Employees' Compensation program. The procedures for handling these fee requests have now been changed substantially to allow action on the fee to be taken at the same time the case is adjudicated. This eliminates the delays in those cases where the respresentative has submitted a timely fee request. We believe that this change should alleviate the complaints associated with representative fee requests.

PROCESSING HEARING LOSS CLAIMS

Question: The Nation's Capital has a successful experimental office, part of District 25, specilizing in processing hearing loss claims for workers' comepnsation which has effectively eliminated backlog.

Answer: We have had considerable success with the Hearing Loss Task Force which was established as a part of the National Office in March 1976 to handle hearing loss claims on a specialized and more expeditious basis. About 12,000 claims have been transferred from a number of district offices over the past 18 20 months to be handled in this specialized unit. The average time for processing a claim in the Task Force is about 90 days from the date action is initiated. However, it should be noted that claims may be pending in that office for 90 days or more before action is initiated.

Question: Why don't you establish specialty hearing loss claims offices in other parts of the country?

Answer: Most hearing loss claims have originated from shipyards on the east coast. The task force approach is only feasible when we have a concentration of claims which outstrip the capacity of an individual field office to process. This situation fortunately has not occurred in other areas suffciently to warrant the establishment of similar units.

Question: What is the average cost and average time involved in resolving hearing loss claims in your District 25 Office compared to other parts of the country?

Answer: With respect to other offices around the country, the

processing time may vary as much as 2 years or more. The average award would be about the same since the same procedures are to be used in all cases. As noted elsewhere in this testimony, performance standards have been established which initially call for these cases to be processed within 6 months from date of receipt. The average award for an approval claim is about $6,400.

NEW STAFF

Question: How many of the 123 new positions provided by Congress in last year's supplemental to reduce backlogs of claims under the Federal Employees Compensation Act have been filled.

Answer: With respect to the 123 positions, ESA has to date filled 110 of these positions, including new hires and details of present staff into the investigation unit. The positions that are filled include 68 cliams examiners, 14 physicians, 20 investigators, and 8 support staff. The remaining positions are associated with the establishment of the investigative unit for which organization clearance was recently received and for the full time medical positions where some classification issues must be resolved.

Question: How many new positions did you request of the Office of Managment and Budget (OMB) for fiscal year 1979, compared to the OMB allowance?

Answer: In the zero based budget submission to OMB, two "Improvement" levels were proposed totalling 71 positions. The 25 position allowance represents one of these improvement levels.

Question: What is the current backlog of Federal Employees Compensation claims, and when do you expect the backlog to be eliminated?

Answer: As of the end of January, we had approximately 90,000 claims requiring some kind of action. There was also a variable total of up to 15,000 to 20,000 medical bills to be paid. Since we process from 8,000 to 10,000 such case actions each week, the 90,000 would represent about 2 months workload. The unpaid medical bills hould be paid within 3 weeks. As can be noted, it is difficult to distinguish between "backlog" and "inventory" of work to be done. To facilitate this matter, we are in the process of establishing an aged case reporter system which will give us a better picture of what appropriately would be considered "backlog". Performance standards have been established which will serve to identify those cases that are pending action, and those that have gone beyond the established standard which would then become backlog cases and receive added attention. We expect to cut the overall inventory by half over the next 6-9 months.

BLACK LUNG TRUST OPERATIONS

Question: Please give your estimates for each of the next five years for (1) receipts of the trust fund from (a) the black lung coal tax, (b) repayable advances, and (c) other receipts and (2) disbursements from the fund for (a) benefit payments, (b)

administrative expenses of Labor, Treasury, and Health, Education and Welfare, and (c) repayment of advances.

Answer: The Employment Standards Administration (ESA) had furnished estimates to both Houses of the Congress at the time that the conferees were putting the final bill together. ESA will be supplying those estimates for the record. It should be noted that these estimates must still be considered tentative.

Table IV
Estimated Receipts for Mined Coal - Excluding Lignite
Black Lung Benefits Act of 1977
(Dollars & Tons in Millions)

	FY 1978	FY 1979	FY 1980	FY 1981	FY 1982	Five-Yr. Total
Underground Coal ($.50/Ton or 2% FOB Price/Ton)						
Appalachian						
Tons Mined	259	275	285	301	317	1,437
Rate/Ton	$ .50	$ .50	$ .50	$ .50	$ .50	$ .50
Receipts $	$129.50	$137.50	$142.50	$150.50	$158.50	$718.50
Central						
Tons Mined	61	64	67	69	73	334
Rate/Ton	$ .31	$ .32	$ .34	$ .36	$ .38	$ -
Receipts $	$ 18.91	$ 20.48	$ 22.78	$ 24.84	$ 27.74	$114.75
Western						
Tons Mined	13	14	15	16	17	75
Rate/Ton	$ .40	$ .43	$ .45	$ .48	$ .50	$ -
Receipts $	$ 5.20	$ 6.02	$ 6.75	$ 7.68	$ 8.50	$ 34.15
Surface Mined Coal ($.25/Ton or 2% FOB Price/Ton)						
Appalachian						
Tons Mined	177	180	188	198	204	947
Rate/Ton	$ .25	$ .25	$ .25	$ .25	$ .25	$ -
Receipts $	$ 44.25	$ 45.00	$ 47.00	$ 49.50	$ 51.00	$236.75
Central						
Tons Mined	83	82	82	80	77	404
Rate/Ton	$ .25	$ .25	$ .25	$ .25	$ .25	$ -
Receipts $	$ 20.75	$ 20.50	$ 20.50	$ 20.00	$ 19.25	$ 101.1
Western						
Tons Mined	112	120	136	149	164	681
Rate/Ton	$ .14	$ .15	$ .16	$ .17	$ .18	$ -
Receipts $	$ 15.68	$ 18.00	$ 21.76	$ 25.33	$ 29.52	$110.29
Total Receipts						
Underground	$153.61	$164.00	$172.03	$183.02	$194.74	$867.40
Surface	80.68	83.50	89.26	94.83	99.77	448.04
Total	$234.29	$247.50	$261.29	$277.85	$294.51	$1,315.44
Agency Requirements						
D.O.L.	$340.00	$370.00	$350.00	$320.00	$320.00	$1,700.00
HEW	8.51	3.37				
IRS	.50	.50				
Treasury	.03	.03				
Total	$349.04	$373.90	$350.00	$320.00	$320.00	$1,712.94
Surplus(Deficit)	$(114.75)	$(126.40)	$(88.71)	$(42.15)	$(25.46)	$(397.50)

Note: The above figures do not provide for any lapse for either receipts or disbursements.

Question: How much do you believe that we will need to appropriate for advances to the fund and when do you think they will be repayed?

Answer: Based on the estimates provided, the Congress will need to appropriate about $100 million annually for the next three years and something less in the two years thereafter. The Congressional Budget Office (CBO) has also developed estimates which indicate outlays of about $400 million less than those of the Department. If the CBO estimates prove correct, the fund would become self-sufficient in two years and could start repaying advances.

Question: Do you believe that the taxes in the bill are sufficient to ensure that the fund will be self-financing?

Answer: The sufficiency of the tax rate contained in the Revenue Bill depend on which set of outlay estimates are used. While the Department is confident of the accuracy of its estimates based on the data we have available, DOL also recognizes that there are significant unknowns which affect the revenues and balances in the Trust Fund. For example, if coal production, by region, exceeds or does not reach the levels projected by the Department of Interior for the next five years, the estimated revenues would be adjusted accordingly. Conversely, if the number of approved claims is substantially different from the projections we have made, the requirements on the Trust Fund would be changed.

The managers of the Black Lung bills have indicated Congress's intention that the Trust Fund be self-sufficient and their intention to seek the legislative adjustments in the tax rate, should experience prove that necessary. The Department believes this is a reasonable approach.

RECONSIDERATION OF CLAIMS

Question: Please describe any administrative arrangement that you have made or are comtemplating with the Social Security Administration with respect to the reconsideration of claims mandated by the Black Lung Amendments.

Answer: The Department of Labor (DOL) and the Social Security Administration (SSA) have been engaged in continuing discussions concerning our respective roles with regard to the reconsideration of Part B denials under the probable Black Lung Amendments. Draft copies of the regulations have been exchanged and agreement has been reached on major issues. Arrangements are now being made for the transfer of the Part B claims to DOL. DOL is planning to establish a separate unit exclusively for the review of these claims. SSA will forward claims to that office on a periodic basis following completion of their review.

Question: How long do you expect that it will take you and the Social Security Administration (SSA) to complete these reconsiderations?

Answer: The Department will make every effort to meet the goals established by the new legislation. The Department is estimating that within three years these reviews can be completed.

Question: What effect will these considerations have on your current backlog?

Answer: The Black Lung Amendments also include a provision for the automatic review of all Part C denials. These additional workloads created by the Black Lung Amendments will obviously require a temendous effort by the Department.

Question: What is the mean time that it now takes from application for benefits to initial decision? What do you expect it to be at the end of FY 1979 with the staff that you have requested?

Answer: An initial determination can now be made on new claims within a year of the application date. Under the new law, we will have to process a significantly larger universe of claims. Our goal will be to cut our time frame on initial determinations to six months from the application date on a new claim or the point where we start the review of a denial. We are evaluating the resources needs to meet these goals and as soon as such needs are fully developed, they will be submitted to the Congress.

INSURANCE OPERATIONS

Question: Please describe how the insurance fund will operate.

Answer: We are in the process of developing alternative ways of meeting the insurance requirements of the new law. We are looking at other Federal insurance programs as part of this process. We have not, as of this date, come to any decision on how the insurance program will be operated.

Question: How can you assure this Committee that the government will not face unanticipated liabilities from the insurance fund as it has no reserves to pay claims in excess of the premiums collected?

Answer: The Congress was clear that it intended that the insurance program be self sufficient. The record also indicates that the insurance programs is not to be operated strictly for high risk operators. Any program put in place will adhere to those principles.

Question: Do you anticipate making any request for repayable advances for this insurance fund? If so, when and how much?

Answer: We have made no judgement on this issue at this time.

PRECEDENTIAL VALUE

Question: Do you believe that the basic provisions of the Black Lung Amendments are a useful precedent for dealing with other occupational diseases?

Answer: The industry based tax provision may be a viable mechanism for financing the cost of occupational disease under workers' compensation. However, it should be noted that these provisions are being put into effect only after the Federal government had assumed a major liability which now totals over $1 billion annually.

Several issues have been raised concerning the viability of establishing standards as to the work-relatedness of diseases which would allow individuals to receive workers compensation benefits. Such standards are likely to be very controversial and subject to a considerable amount of litigation. These and other issues concerning the compensation of occupational diseases will be analyzed as part of the study of occupationally-related respiratory and pulmonary diseases mandated by the Black Lung Amendments.

Question: What do you believe would be the cost to provide coverage to similar victims of asbestosis, byssinosis, red lung and occupational diseases?

Answer: Given the lack of information on the magnitude of the occupational disease problem and the number of work-related disabilities, it is difficult to project the actual costs of compensating victims of occupational disease. A good guess at this time is that the cost of compensation could run into the billions of dollars annually, depending on coverage. These are several factors which could be involved in such an estimate: 1) 100,000 deaths annually from occupational diseases based on The National Institute of Occupational Safety and Health (NIOSH) estimates, 2) 10-20% of the 600,000 awards annually for permanent total disability under the Social Security Disability Income (SSDI) programs are related to occupational diseases, and 3) the NIOSH Health Hazard Survey which indicates that one out of every four workers has been exposed to an Occupational Safety and Health Administration (OSHA) identified health hazard or carcinogen. However, such costs may be partially offset by reductions in other income maintenance programs if such coverage was adopted. The Department has no firm idea of the potential costs of administering such programs.

BLACK LUNG PROGRAM

Question: The Employment Standards Administration said, in response to a General Accounting Office report, that efforts were under way to develop detailed plans for organizational changes, procedural changes, and additional staffing for Black Lung claims. What is the current status of these efforts? What will it cost, over the budget request, to process Black Lung claims on a timely basis?

Answer: Under current legislation the 100 positions added to the program by Congress for FY 1978 over the request. These positions will provide sufficient resources to process claims on a timely basis once the staff is trained. However, the new legislation which is likely to be enacted this month will change drastically the workloads and the processing requirements under the Black Lung Program. We are now evaluating the resources needed to meet the requirements of the new legislation.

Question: What is the Office of Workers' Compensation doing to assure that claimants receive adequate information and filing assistance in Black Lung claims?

Answer: The Black Lung program has under development and implementation a management information system capable of providing definitive information on the status of a given claim in a minimum time frame. This information can be made available upon request to the claimant. We have implemented certain new standards to improve the response time frames to Congressional and claimant inquiries.

Question: What progress has been made in filling the 100 new permanent positions for Black Lung claims as provided by Congress in fiscal year 1978 Labor-HEW bill?

Answer: The Employment Standards Administration has either hired or made commitments on 30 of the 100 additional Black Lung positions added by the Congress. The remainder of these positions are in various stages of the recruitment process.

Question: How effective do you think these 100 new permanent positions will be in reducing the backlog of Black Lung claims?

Answer: The effectiveness of the 100 new positions in reducing the backlog of Black Lung claims would be significant under present legislation. However, with amending legislation imminent, which would change the nature of the workload as well as the projected size of the workload, we will have to evaluate the situation.

SUPPLEMENTAL FOR ENFORCING MINIMUM WAGE LAW

Question: Explain specifically why 100 new staff are required in a supplemental for enforcement of Fair Labor Standards Act provisions as a result of the new minimum wage law enacted by Congress.

Answer: The additional positions will be needed to service a projected increase in the number of complaints received alleging violation of the minimum wage provisions. Historically, each time the Fair Labor Standards Act has been amended, the number of complaints filed has increased by between 18 and 25 percent over the levels experienced annually in the year immediately preceeding the given amendments. For example, the total complaint load between 1973 and 1976 increased by 48 percent over the 1973 level, reflecting the impact of the 1974 Amendments. The Amendments of 1977 will significantly increase minimum wage levels. Extensions of coverage will be more moderate than has occurred under previous amendments. The overall effect is projected to be a 20 percent increase in the annual rate of minimum wage and overtime complaint filings by the end of FY 1979 over the FY 1977 base.

In terms of ability to service these complaints, the Employment Standards Administration (ESA) currently has resources only to meet present complaint loads and mandatory non-complaint commitments. Coincident with implementation of the 1977 Amendments, ESA will be undertaking another significant initiative - the intensive investigation of employer violations of the Fair Labor Standards Act

and the Farm Labor Contractor Registration Act with regard to the employment of undocumented workers. Supplemental resources have also been requested for this effort. The combined effect of the amendments and this initiative will result in workloads exceeding staff productive capacity.

Without the additional 100 positions, the inventory of complaints awaiting action will grow by approximately 6,000 to over 35,000 by the end of FY 1979 with the growth trend unabated. A performance standard and goal has been established to service incoming complaints within 90 days of receipt. This standard cannot be met without these additional resources. Of the 100 positions, 90 will be compliance officers. These resources will once again restore the equilibrium between the workload received and serviced.

Question: What is the average number of months your budget assumes this staff will be on board during the balance of FY 1978?

Answer: The Budget document calls for a 75% lapse rate so that, in the aggregate, this new staff is projected to be on board for one quarter of the year. However, recruitment and training would begin immediately upon passage of supplemental legislation. From an operational standpoint, however, it is not expected that all the compliance officers can be fully trained and productive until FY 1979. A net enforcement effort of 15 staff-years is anticipated from this group in FY 1978.

Occupational Safety and Health Administration

STATEMENT OF EULA BINGHAM, ASSISTANT SECRETARY

ACCOMPANIED BY:

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DAVID C. ZEIGLER, FINANCIAL MANAGER
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CHARLES E. PUGH, DIRECTOR, OFFICE OF BUDGET

Senator Eagleton. We will now go to OSHA.

Dr. Bingham, I apologized to everybody and the most to you since you have been detained the longest. Let me tell you a little story, Dr. Bingham.

People always tell you the bad news. I have to tell you some good news. I am very proud of you, the fact that the cancellations or whatever it was of the 1,100 pages, 1,100 different regulations. An enormous welcome sign.

Commerce Department will put on, at a Senator's request, a forum for small businesses to come in and learn how to bid on Government contracts. They aren't big enough to have a big department like McDonnell Douglas, but maybe ought to bid on some widgets that the Government is going to use.

So the Commerce Department put on an excellent forum. We had 660 small businesses represented. So during the noon hour, naturally I had to give a speech. And so we had a question and answer session.

They were telling me about problems with ERISA and problems with product liability. Driving them up the walls, great problems on that.

There wasn't one mention of OSHA, which surprised me. So I thought I said, well you guys have been asking me questions. Let me read a list of some nasty words and tell me how many, how substantial has been your problems with some of these.

Product liability was far and away, lots of hands went up. With OSHA it was about 15 hands out of 600, which I thought was absolutely marvelous. I went on to say, you know, we receive a lot of mail on OSHA. I thought every businessman in the country hated it, that it was abusive, high-handed and what have you.

And a lot of them shook their heads meaning no, they haven't abused me, 15 people said they had had a problem with it. I didn't take that to mean you had treated them bad.

But I don't think I would have gotten that same response a year or so ago, so I must give the credit to you and to your staff, because I just have to believe you have made some very, very important changes and are you spending the time now on those things that are really serious like asbestosis and these other environmental illnesses with which you are a nationally recognized expert.

You get all the brickbats. That doesn't mean I won't send you a nasty letter next week about some businessman who says you abused him or something, but I have to think the picture has substantially improved and you are entitled to the credit.

Dr. BINGHAM. Thank you.

Senator EAGLETON. Do you have an opening statement you would like to make?

OPENING STATEMENT

Dr. BINGHAM. I have an opening statement which I will submit for the record.

NEW INITIATIVES

We are trying to push forward some new initiatives to augment what we have done during the past 10 months I have been here. Let me briefly go through those with you and highlight the increases.

We are asking for program increases totalling a little over $21 million and 20 new positions. Actually in other areas there is a decrease of little over one-half-million dollars and 25 positions in the overhead area of the agency.

The specific program increases I would like to present to you are $8,395,000 in grant funds to match the increased costs of State programs for salaries and benefits; to upgrade State capabilities to enforce health standards; mostly to aid the State programs, in training personnel.

We have asked for $4,950,000—for a total of $7,950,000 overall—to underwrite necessary planning and developmental costs for new education and training programs for workers and employers. When I came to the agency last spring there was only $1 million budgeted for telling workers and employers about hazards and for enlisting their cooperation in the elimination of these hazards.

Congress did authorize another $2 million and we are asking now for a total of $7,950,000.

There is another increase we would like to have: $3,500,000 so that we can reimburse States for their onsite consultation services to employers.

We have already offered States 90 percent funding for onsite consultations, and in order to continue expansion of those services we need another $3½ million. $2,500,000 has been requested for technical support. It is vitally necessary that we have additional moneys to provide the services to actually analyze samples for asbestos and for silica, and that we be able to look at the technology that is necessary to provide the support of our compliance officers.

We have asked for $290,000 and 20 positions to promulgate new health standards. There are substances out there that present seri-

ous health hazards to workers for which we have no health standards. Consequently we need an increase in the size of that particular unit in order to continue moving ahead with health standards.

We have asked for $2 million for our policy and evaluation office.

HEALTH STANDARDS

Senator EAGLETON. Would you back up on the last one a bit? Does any of that relate to——

Dr. BINGHAM. The health standards?

Senator EAGLETON. The health standards. Does any of that relate to the problem EPA is having with the identification of toxic substances?

Dr. BINGHAM. Yes, we participated in that implementation of the Toxic Substances Control Act. There are some legislative requirements that we must fulfill. The OSHA staff who attend the toxic substances meetings are health standards personnel who are particularly well versed in the field, and can help identify the most hazardous toxic substances, and assist in a determination of what still needs to be done. We do have certain obligations under TOSCA.

There is a $2 million request for policy research and evaluation. That is to help us conduct studies so that we can better target our inspections on the most serious hazards.

We have files that have been compiled over the years. No one has computerized those files. We have not sufficiently evaluated the files to see if we have the right safety standards or whether we should drop more safety standards.

We are trying to come up with a health targeting model for inspections dealing with health hazards and we have brought onboard individuals in the policy group. Dr. William Lloyd, for example, who was formerly with NIOSH, is an expert in epidemiology and the whole occupational, statistical area, and can help us ask the right questions and provide this targeting model through policy research funding. I would be glad to expand on any of these items or answer questions on any of these that you would like to present.

Senator EAGLETON. Having complimented you for the regulations that you canceled or have withdrawn, can we hope, in the months ahead, there might be even some more you might be able to discard as being less than absolutely necessary?

Dr. BINGHAM. We will continue to go over the safety standards. We are currently revising a number of the safety standards, and it looks to me as if we are going to be able to reduce some of the volume, at least by two-thirds. This revision eliminates a lot of the extraneous material.

Senator EAGLETON. Yes.

Dr. BINGHAM. Hopefully, we will make more progress in this area this year. I don't know that we will ever again come up with 1,100, but we might.

Senator EAGLETON. No, I am not the only one interested in that. President Carter is interested in that.

Dr. BINGHAM. Yes.

Senator EAGLETON. And he's raised it more than once himself, not with you in particular, but with the whole governmental process.

GRAIN ELEVATOR EXPLOSIONS

I would like to probe with you a little interest of mine: These grain elevator explosions that seem to have come upon us in rapid fire order.

I guess the first one I knew about was New Orleans. Then I became very interested when we had one in Liberty, Mo., as I recall.

Here is the New Orleans one: December 22, Continental Grain Co., 35 dead. Now, that was the colossal one, an estimated $100 million in damages.Tupelo, Miss., 2 deaths. Courtland, Kan. had one sometime in December. Galveston, Tex., 16 or 18 deaths. Then Liberty, Mo., on the 19th, 3 deaths. As recently as January 21, Duluth.

So there are six. We sent a letter to Elmer Staats. Here is an extra copy. You don't have to read it now, Dr. Bingham, but I take it that in a matter such as this, that OSHA, would it be fair to say, you all have the primary investigative responsibility?

Dr. BINGHAM. Well, I think that would be probably true. We have just appeared at some hearings that the House had on this particular sad situation. Let me present to you some of the things——

Senator EAGLETON. Would you?

Yes, I know if you have had long hearings, I don't expect you to give me the full——

Dr. BINGHAM. Well, first of all, this is an old problem. We have known about grain elevator explosions in this country for many years.

Senator EAGLETON. By the way, I also have the Agriculture budget. That is why I have a double interest in this.

Dr. BINGHAM. Yes. I understand the first grain elevator explosion was in Italy in the 1700's. There have been quite a number of trade journal papers about grain elevator explosions. Numerous people have been interested in them over the years.

I think that, traditionally, they have been explained as dust explosions, that is, large concentrations of dust, that are usually ignited by a spark, either from welding or from equipment that is sparking—the wrong type of electrical equipment.

I think that conclusions that were drawn perhaps 30 and 40 years ago are still correct. What has caused the increase in numbers we can't really say, although we do know that we do have more large grain elevator facilities.

They are in operation for very long hours. There has been a tendency perhaps to let go on health and safety, that is to say, not to have adequate maintenance.

There are subcontractors that may appear on the grain elevator job sites. They may not take the necessary precautions required when working in grain elevators. So, I think it is a problem of too much——

Senator EAGLETON. Also, we are storing more grain because of the surplus.

Dr. BINGHAM. That is correct. It's also been suggested that it has something to do with the low humidity, and we are checking in to

see whether there were actually decreases in humidity during that period of time.

I should point out we are working very closely with the Department of Agriculture, more closely than I think the two departments have ever worked on this particular issue.

It's even been suggested that different types of harvesting may influence it. I don't know whether that is true or not, but we will be investigating it. I think we are very near to issuing citations in Galveston and New Orleans. Certainly, I cannot comment on them right now.

Senator EAGLETON. No.

Dr. BINGHAM. Because we would like to review those citations.

Senator EAGLETON. Sure.

Dr. BINGHAM. As soon as they are issued, we will be happy to pass all this information to you.

Senator EAGLETON. Why does it seem to be that I have cited six of them in a 2-month period, December and January.

I presume, you say some go back to the 1700's. But maybe it is because of the Missouri one, but it seems Bang, Bang, Bang. I don't remember anything previously like this.

Dr. BINGHAM. I don't know. I suspect that there has been an increase of them over a short span of time. I will also say that if no one had been killed, or only one person was killed or injured, we might not have paid as much attention as we to this problem have because there was such an enormous loss of life in these two facilities.

One does tend to see construction accidents every week where one or two people are killed. It is just that when they come like this——

Senator EAGLETON. Yes.

Dr. BINGHAM. We are currently investigating the explosion in Missouri. There are individuals in that case who are still in the hospital. We would like to have at least one of these individuals interviewed before we do finally issue citations.

I would like to ask Mr. MacKenzie who is our field coordinator to actually lay out to you what steps we have taken specifically in this industry since the tragedies have occurred.

AGENCY RESPONSES

Mr. MACKENZIE. Yes, Mr. Chairman, I thought— probably I will just do a sequence of events from the time of the explosions.

We started investigating, naturally, the accidents in New Orleans; Galveston; Tupelo; Wayne, Ill., Liberty and Duluth, Minn.

On December 30 there was a letter to all the regional administrators telling them that we will accept complaints from all sources, including the Department of Agriculture grain elevator inspectors because we felt as though they had some knowledge right there at the location.

We made a listing of all grain elevators in each region and sent it out to the regional administrators. Then we had a mailing of a hazard alert to 10,000 employers throughout the Nation who owned grain elevators.

I am only too happy to leave a copy of that. We then had a meeting with the engineering group, representing the grain eleva-

tor industry. This was in conjunction with EPA, FDA, and the Agriculture Department and ourselves.

Then we had a meeting with the employee unions. The purpose of having these two meetings was to determine from employers or employees reasons for changing conditions that would cause this number of explosions in such a short period of time.

Senator EAGLETON. If I might break in there, rapid succession of these, six in a short period of time, that even surprised you?

Dr. BINGHAM. Yes.

Mr. MACKENZIE. Oh, yes.

Senator EAGLETON. In terms of the rapidity and severity of these things, all of a sudden even seeming to occur at one time?

Mr. MACKENZIE. We have to remember that we had approximately 55 deaths within a 6-day span.

Senator EAGLETON. Yes.

Mr. MACKENZIE. If there is anything that makes people run, it is when something like that happens. You want to do everything possible to prevent repeats.

That is what we are trying to do. OSHA forwarded to all regional administrators an EPA letter stating that EPA would inspect air-control systems in grain elevators, and regional administrators were instructed to closely monitor air-control systems.

Senator EAGLETON. EPA wouldn't have direct primary jurisdiction over there.

Mr. MACKENZIE. That is right.

Senator EAGLETON. Or would they? They inspect cotton gins.

Dr. BINGHAM. On the outside they would.

Senator EAGLETON. EPA does go into cotton gins.

Mr. MACKENZIE. We thought this was a good chance to cooperate with EPA.

Senator EAGLETON. I think it is EPA that goes into cotton gins, because you inhale that lint.

Mr. MACKENZIE. That is OSHA.

Then through the companies and Coast and Geodetic Survey, we have requested data for——

Senator EAGLETON. Go ahead, sir.

Mr. MACKENZIE. We have requested data as for the last 7 years. We have identified every explosion that we knew in a grain elevator, and the location, and we are looking now for the humidity conditions during that time to see if there is a pattern across the Nation concerning when these explosions occur.

I realize that it may sound exotic; it may very well be that during some atmospheric conditions, static electricity is set up much faster than other times and can be causing these explosions. We are doing some research on that.

On January 9, the Agriculture Department sent a letter to all employees stating under what conditions they would stop work and notify OSHA. This was for their grain inspection bureau.

Senator EAGLETON. There were some inspectors killed.

Mr. MACKENZIE. Thirteen, I believe. On January 20, at 8 o'clock we happened to have all regional administrators and area directors in for a meeting in Washington, and we told them that all available resources other than those focused on complaints and fatalities will be used on grain elevators by region.

This is for the short term but we did feel as though it was that urgent when we had that last explosion on Thursday evening January 19, that we should put out all forces on it.

PREVENTIVE MEASURES TAKEN

The next thing we did was develop a television cassette on what to look for as danger items in a grain elevator. That was just completed in Fort Riley yesterday. It will be ready for review and we will be sending that out not only to our own staff but to fire marshals throughout the States, trying to get them involved as our eyes and ears.

Maybe as they are going on their regular fire inspections, they may be able to see some of the conditions developing. A lesson plan has been developed by the Kansas City regional office to be copied and sent to all regional administrators, who will see that State fire marshal's offices are contacted and given instructions on what to look for in grain elevators.

Instructions have been issued for all area directors to give their home telephone numbers to the Federal grain inspectors' supervisors so that they can be reached at night, Sundays, and Saturdays in case the inspectors see hot bearings, or in case they see compressed air being used to blow around grain dust.

We then sent a letter to the Department's Office of International Labor Affairs sending our hazard alert to Canada, Australia, Russia, France, Poland, Brazil, and Argentina, and requesting any knowledge they may have.

Senator EAGLETON. Have there been any explosions at the other——

Mr. MACKENZIE. In Australia, which is a large grain producing country, there has never been an explosion.

Senator EAGLETON. How about Canada?

Mr. MACKENZIE. Canada? They have had them.

Senator EAGLETON. In these recent months?

Mr. MACKENZIE. Canada had one about a year ago, not in recent months.

Senator EAGLETON. So if you are talking about atmospherics, not that Canada is identical to the United States, but it is up there, you know——

Mr. MACKENZIE. We have had a number, Mr. Chairman, of grain dust explosions in the last 50 or 100 years.

As Dr. Bingham said, the only reason there hasn't been this much attention paid to them is that usually no one is killed.

Senator EAGLETON. Canada has not had one in a year, you said?

Mr. MACKENZIE. They had a big one a year ago. They may have had a number of small ones that they have not paid attention to either. But we thought possibly they may have some information in these countries that we don't.

Senator EAGLETON. How about the Soviet Union?

Mr. MACKENZIE. That is what we are sending for—what problems they have had, what information they can provide us.

Senator EAGLETON. The Ukraine?

Mr. MACKENZIE. Yes, we have sent to Byelorussia and the Ukraine.

The last item was on January 28. The Agriculture Department sent out a new warning system to all of their FGIS—their Federal grain inspectors—as to when they would stop work and call OSHA, and this was sent to all of our people at the same time so that they would be knowledgeable, if they called, to answer them immediately.

Senator Eagleton. Would the World Health Organization have anything on this?

Mr. MacKenzie. No, WHO would not be involved as much as the ILO.

Senator Eagleton. We are out of that.

Mr. MacKenzie. I know, but we have a hazard alert system which we still maintain to this very day and we are utilizing that.

POLLUTION CONTROL EFFECTS

Senator Eagleton. Let me ask this question. It's been reported in the press that pollution control requirements mandated by law and enforced by EPA regulations are somehow connected with these grain elevator explosions.

The charge is made by industry that grain dust that formerly could be vented into the open air now must be kept inside the elevators. Do you have any comment on this?

Mr. MacKenzie. Yes, we are looking into this. We are having our industrial hygenists check air movements, and so forth. We do feel that air movement systems are good, but they must be maintained. You can't put in an air system without maintaining it. We are looking at maintenance problems here. You know, a system can be very easily short-circuited by opening a window or a door in the wrong place.

Air systems are pretty closely designed. We are looking into the maintenance problems.

I don't think that we can say at this time that EPA's regulation has contributed to these explosions.

Senator Eagleton. You haven't excluded that as a possibility?

Mr. MacKenzie. No, we haven't excluded it, but I certainly don't think we can say it.

Dr. Bingham. I would like to comment on this in a little bit more detail. It is true that some companies have put in systems where they have collected the dust in a "bag house." And some of this dust is very fine. And they have reintroduced some of this very fine dust back in the system.

This is contrary to all good safety practices, really, but only one of those companies that had an explosion did this sort of thing. The other one did not. So that could be a problem.

In our hazard alert we recommend that the companies not add these very fine highly charged dust particles back to the system. Now, if you read the Wall Street Journal, it turns out that one of the vice presidents of the largest company says that he thinks that these systems are worthwhile and do not cause a problem. That company thus far has not had any of these explosions. It's been relatively free of explosions.

Senator Eagleton. This is a company that makes equipment?

Dr. Bingham. No, it is Cargill. A grain elevator, the largest, apparently, at least in the United States.

Now, we have had extensive discussions with Dr. Richard Ginnold from the Wisconsin School for Workers, who is an expert in this area. He is convinced that it is not the air systems, because if these systems are put into place and are properly maintained to keep the level of dust down—and actually we have a dust level that we worry about for health reasons—there will not be an explosive problem in terms of the level of dust and the safety hazard.

Senator EAGLETON. Let me ask you about Dr. Ginnold. Last week I see he charged as follows:

> 50 years later many of these minimum requirements on dust control, housekeeping action, electrical equipment, and control of welding sources are still voluntary guidelines and are enforced only weakly—not once a week, but w-e-a-k-l-y—by OSHA and state agencies.

I am told he said that somewhere.

Dr. BINGHAM. Yes, we were at the same hearing and heard him say that. About a year ago the agency changed the way it classified violations. So many of these hazards that up until about a year ago were classified as nonserious are now classified as serious.

EMPLOYEE COMPLAINTS

But you have to understand that we have very few compliance officers; many grain elevators. The obligation is upon the employer to provide a safe and healthy workplace. That's one of the reasons we encourage workers to file complaints. When we know there are dusty, dirty conditions, they must help us help them.

I don't think it is possible for us to go into every one of these worksites When we do put an increased emphasis in one area as we are right now—because we, like you, are afraid that something else is going to happen—we have to realize that we are taking resources away from inspecting a plant where there is silica exposure, where there is lead exposure, where there is asbestos and mercury exposure.

There are only so many bodies out there. And even though we are trying to inspect, I think that what we have to do is to educate and to bring public pressure to bear on these companies to clean up.

If they clean up, if they put in the right kind of electrical equipment, if they don't weld when they are not supposed to, the accidents just won't occur. OSHA cannot do it alone.

Senator EAGLETON. How many grain elevators are there in the country?

Mr. MACKENZIE. 10,012.

Senator EAGLETON. Some of them, the giants like the one in Galveston——

Mr. MACKENZIE. 92 export elevators.

Senator EAGLETON. [continuing]. That are used. Because of their size and, you know, are you proceeding with those first?

Dr. BINGHAM. Yes.

Senator EAGLETON. Because there is a greater risk of human life than a small elevator in some little town in Missouri?

Mr. MACKENZIE. Yes, naturally we are concentrating on the large elevators. That is another part of our search. But we don't

absolve any, because poor conditions can create an explosion in big or small elevators.

If we are pushing grain production and have increased it or doubled it from 1970 to 1977, you are naturally going to have more dust. If you have more dust, you naturally have more maintenance problems. We have met with the unions on this and they have told us that in some elevators they have decreased the maintenance, the sweepers, and so forth. Those are all things that we are looking into—the amount of grain going through, the amount of dust, and so forth.

Senator EAGLETON. I have some other quotes from Professor Ginnold. What I think I will do, I have several questions on this, but we will group them together, and I will have you respond to various, in writing, to various quotes that he made apparently in his testimony last week.

Dr. BINGHAM. Yes.

Senator EAGLETON. I will ask you this: He said, "Ironically, OSHA cites housekeeping hazards as de minimis violations, implying no relation to health and safety with no fine or required correction." What have you to say to that?

Dr. BINGHAM. We explained that before the House committee. We are talking about compliance officers who might walk down a hall and see some boxes piled up. That is the kind of housekeeping violation that is referred to—a violation that was just pulled out of a computer.

Believe me, when we go into a grain elevator, and it is dusty, and dust is piled up in the wrong places, that is cited, and it is cited "serious", and it may be cited "willful".

SAFETY GUIDELINES

Senator EAGLETON. Is it correct that OSHA has been working on guidelines to reduce hazards at elevators for the past 2 years? If so, why has it taken so long to issue these guidelines?

Dr. BINGHAM. I don't know about that. The guidelines for the grain elevators have come out.

Senator EAGLETON. Two excerpts I am reading from, an article in the Washington Post, December 27, 1977:

> An OSHA spokesman said in Washington today that the Agency and the U.S. Department of Agriculture—the latter of which now has lost 13 Federal grain inspectors in the two major explosions—are now working on a crash basis to develop safety guidelines for grain handling * * *.

Then it goes over here and says:

> Until these guidelines are finished, grain elevators are covered by general OSHA regulations and, indeed, last October 27, OSHA inspectors cited Continental for two violations at the New Orleans elevator: lack of electrical grounding and poorly marked exits, a spokesman said, which had been corrected in time for * * *.

What does it say about the 2 years?

Dr. BINGHAM. The crash program—we did put those together in 2 weeks. And Dr. Ginnold helped put those together. What is very difficult is that you can go into a grain elevator and inspect today. Tomorrow morning the system for evacuating the dust can stop. In 2 hours—in 1½ hours—the whole place is a dusty cloud, and just ripe for an explosion.

So it is a continuous process of safety. One cannot afford not to put in sparkproof electrical equipment, because if the evacuation system for the dust ever shuts off, you have an explosive atmosphere then, once again.

It is just one of those things that you have to keep after continuously.

Mr. MACKENZIE. Mr. Chairman——

Senator EAGLETON. Go ahead, sir.

Mr. MACKENZIE. This is something I would like to leave with you. This is our past history in grain storage in which we indicate the number of inspections, and how many were serious violations.

Senator EAGLETON. OK. Do you have some employees whose almost full-time job is to look after grain elevators, or are most inspectors—do they do grain elevators and some other things that may be in that area, a meatpacking company or maybe a factory that fabricates some product?

Dr. BINGHAM. That is the way it is. I can tell you that probably some of our most knowledgeable individuals in inspecting grain elevators come out of Kansas and Missouri and that particular region. We called upon those individuals to come down when we had the explosions in Texas and New Orleans and help out there, because they perhaps inspect far more grain elevators than any other particular region, although, certainly, Region 5, Minnesota and the Wisconsin area, does have quite a number of knowledgeable inspectors.

Actually, the inspection for grain elevators is like the inspection for any other explosive atmosphere. You look for electrical equipment that is improper. You look for dust.

ANATOMY OF AN EXPLOSION

The anatomy of an explosion in a grain elevator is similar to that in a coal mine. And we have worked with MESA and have tried to use their expertise.

Actually, they set off experimental explosions in one of their test laboratories using flour and various kinds of grain dust.

So we have been working with them. But the anatomy of these explosions is pretty much the same, because they are dust explosions.

Senator EAGLETON. I know you have only been in OSHA for 1 year, but do you have any other experience during the past year where there seems to be this sudden development of a whole bunch of hazards at one time?

Dr. BINGHAM. I thought it was that way with pesticides. And I think pesticides will continue until people in this country come to grips with the fact that pesticides are inherently dangerous chemicals.

You know, we just experienced DBCP; and the year before that, when Dr. Corn was Assistant Secretary, there was the kepone episode in Hopewell, Va., and the leptophos episode in Texas.

These are inherently dangerous chemicals. They must be kept after, and we are targeting those kinds of industries.

In addition, the whole refinery area, the explosive nature of refineries. By and large, we tend to rather ignore that.

But I suppose in the Houston area there are every week—and perhaps in the New Jersey area every week—there are refinery explosions and fires.

These are, shall I say, inherently dangerous in terms of explosive atmospheres, just as grain elevators are.

Mr. WHITING. To put the grain elevator situation in context, there is a study by Iowa State which is the best we found during the weeks we were putting this together, which indicates there is an average of roughly six or eight major explosions a year around the country.

In the last 20 years, all together, there were only 35 deaths from grain elevator explosions. This rash of fatalities is a special rash we are looking at, but it hasn't been a major source of deaths in any way comparable to refineries or other kinds of explosions. So it's hit us, and we are looking at it as hard as we can.

Senator EAGLETON. Well, keep us posted on that, will you, because, as I say, I have many interests in it. Since one was Missouri.

CORRESPONDENCE

I have the Agricultural Appropriations Subcommittee, and we are doing some work here on the Labor Appropriations Subcommittee. Mr. Lieberman is the gentleman to my right here in back, who is doing some work on it. We will give you a copy. We are asking Elmer Staats to do some work on it. We are not trying to point fingers of blame, it is not a question of dereliction of duty, but it is a troubling—and you are just as vexed, I am sure, as I am, as to why so many in a span of a few weeks, you know. I'll put my letter to Comptroller General Staats in the record at this point.

[The letter follows:]

LETTER FROM SENATOR EAGLETON

January 31, 1978

Mr. Elmer B. Staats
Comptroller General of the United States
General Accounting Office
441 G Street
Washington, D. C. 20548

Dear Mr. Staats:

Within the past month there have been six explosions and fires at grain elevators in Louisiana, Mississippi, Kansas, Texas, Missouri and Minnesota. A list of the date, place, number of deaths, and name of facility is attached. There has been extensive press coverage of these grain elevator accidents. I am particularly concerned since it has been reported that between 1958 and 1975, 36 people died in grain elevator accidents with total damages amounting to approximately $50 million. This contrasts significantly with grain elevator accidents in the past two years which involved more than three times the number of fatalities and three times the property damage.

What is further disturbing to me is that the explosion at Galveston, Texas, occurred in a grain elevator that was less than two years old. News reports indicated that this elevator had never been inspected by the Occupational Safety and Health Administration (OSHA). Trade publications have reported that OSHA has not inspected anywhere near the approximately 10,000 grain elevators in this country.

In addition, I have been told that OSHA has not finalized guidelines to reduce hazards at elevators. It is my understanding that OSHA, EPA and the Department of Agriculture are presently working on these guidelines to determine when elevators should be evacuated and to identify specific causes of the recent explosions.

Of further interest is that the Federal Grain Inspection Service (FGIS) does not have the authority to close down elevators, and even though FGIS employees can and have been directed to leave unsafe elevators, their operations can still continue if non-graded grain is being processed.

There have been reports that the recent explosions could be caused by a lack of maintenance caused by an unusually large volume of grain for export.

The Committee would like the General Accounting Office to conduct a complete review of this matter to include the following:

1) Place the recent explosions in their proper perspective in relation to explosions that have occurred during the past 25 years.

2) Work with the investigatory agencies who are looking into the explosions to determine, to the extent possible, the cause of the explosions and report the findings to the Com-

mittee. (Of course, the Committee does not expect GAO to duplicate the investigations performed by OSHA or other agencies).

3) Delineate the currently known methods of preventing or reducing the likelihood of elevator explosions and report on their feasibility, advisability and cost.

4) Make appropriate recommendations on actions that could be taken to reduce the likelihood of occurrence of these tragedies.

5) Consider and report on the advisability of establishing more stringent standards for grain elevators and of increasing the utilization of the special expertise available in the Federal Grain Inspection Service in an advisory capacity to OSHA so that prompt elimination of any hazard is assured.

6) Compile a separate report on each of the six accidents cited in the enclosure that includes date, location, estimated cost of damages, general description of damages, type of facility, number of deaths, number of injured, and any other narrative or statistics deemed to be appropriate by GAO.

Please contact Mr. Richard Lieberman of the Subcommittee staff on 224-7272 to discuss this request and to establish a timetable for completion of the report.

Yours very truly,

Tom Eagleton

THOMAS F. EAGLETON, Chairman
Subcommittee on Agriculture, Rural
Development and Related Agencies

RECENT GRAIN EXPLOSIONS AND FIRES

(January, 1978)

DATE	LOCATION	NAME OF COMPANY	DAMAGES
Dec. 22, 1977	Westwego, La.	Continental Grain Company (elevator)	35 dead, estimated $100 million damage
Dec. 22, 1977	Tupelo, Miss.	Sunshine Mills and Grain Inc. (grain drying room)	2 deaths
Dec. ? , 1977	Courtland, Kansas	J & R Grain Company	0
Dec. 28, 1977	Galveston, Tx.	Farmers Export Company (terminal)	16 or 18 deaths
Jan. 19, 1978	Liberty, Mo.	Desert Gold Feed Co. (feed mill)	3 deaths
Jan. 21, 1978	Duluth, Minn.	International Multifoods Company (Elevator #4)	Unknown

SOURCE: Information compiled from news clippings

INVESTIGATIVE ASSISTANCE BY FBI

Dr. BINGHAM. Well, we did ask for help from the FBI to see whether or not there was some outside influence. They have not been able to come up with anything. We are left with, I think, what we have just suspected——

Senator EAGLETON. Here is this 2-year business. Maybe you can shed some light on this. It was the right article. I picked the wrong paragraph.

For the past 2 years the National Academy of Sciences has been studying grain explosions, while OSHA has been working on guidelines aimed at reducing hazards. An OSHA spokesman said today that because of the week's events we escalated that effort.

I guess the 2 years could refer to the National Academy of Sciences.

Mr. MACKENZIE. Yes.

Senator EAGLETON. It is an article by a fellow named Curry and a fellow named Curtis.

Mr. WHITING. This was a study that we financed.

Senator EAGLETON. At the National Academy of Sciences?

Mr. WHITING. Yes. It's not limited to grain dust. It's an attempt to analyze and accurately classify the explosive potential of various dusts and chemicals and elements in the atmosphere of which grain dust is one.

That was let out by our safety standards people some time ago to form the basis for standards.

Senator EAGLETON. In light of what has occurred, are you in touch with the academy to see if they can give a little special attention?

Mr. MACKENZIE. We had a meeting with them also. They were present at the meeting with EPA and ourselves.

Senator EAGLETON. Did they shed any light on it?

Mr. MACKENZIE. As of yet, no.

EMPLOYEE COMPLAINT PROCEDURES

Senator EAGLETON. Two more, then I've about had it.

Is it true that by law, OSHA must follow up all complaints filed by employees? What evidence do you have that disgruntled employees frequently file somewhat frivolous complaints which OSHA must then investigate at the expense of spending time on some of the more significant safety-related complaints?

Dr. BINGHAM. When I came, we had a policy of following up all complaints. That grew out of the kepone situation and leptophos situation, both of which were brought to the attention of the agency, apparently by worker complaints. The dibromochloropropane problem out in California was also brought to the attention of the agency by workers.

We cannot afford to dismiss worker complaints because they are on the jobsite, and when they tell us there is a problem, it behooves us to pay attention to them.

However, we are now instituting a policy of having a preliminary survey of those complaints so we can investigate those that appear to be the most serious immediately.

Imminent danger situations, for example—a grain elevator in Corpus Christi was brought to our attention by an unsigned complaint of an agriculture employee.

Well, we got there fast, and I think perhaps averted another tragedy by doing that.

My point is, we cannot afford to dismiss complaints.

STUDY ON COMPLAINTS

There is a study that shows that complaints do direct us to serious hazards. We can provide that to you. We're more interested in serious violations on a jobsite than any other kind of targeted model.

Senator EAGLETON. Don't hit me with the whole study but give me—you had some fancy words in there about kepone and some of the other things. Give me a little extract from the study.

Dr. BINGHAM. Yes.

[The study follows:]

April 1977

ANALYSIS OF PROCEDURES FOR HANDLING AND SCHEDULING COMPLAINT INSPECTIONS

EXECUTIVE SUMMARY

Inspections originating from complaints have displaced those originating from the general schedule and worst-first models in several regions. Various field personnel have indicated their belief that complaints are inefficient and ineffective for use as scheduling tools. They cite travel scheduling problems caused by the requirement for timely investigation, and the lack of discovery of violations as a result of complaint inspections. Finally, they point out the large drain on inspection resources, given the many other priorities they must deal with.

This paper analyzes the data on complaints. The analysis shows that complaints are effective at taking compliance officers to hazardous workplaces without wasteful resource expenditures on travel. The paper recommends a restructuring of the existing procedure for formal and nonformal complaints to permit greater latitude on the part of Area Directors to schedule and manage their inspection resources. It is important to realize that according Area Directors more latitude increases the risk of errors in judgment. Those are necessary risks, however, if effective resource scheduling is to take place.

Most importantly, the paper underlines the fact that the Agency can not do it all. Increases in inspection resources overall are necessary to enable carrying out many significant enforcement activities now languishing because of the shortage of available qualified personnel. This is true both in health and in safety.

	Serious Violations per Inspection			Nonserious Violations per Inspection		
Complaint type	Health	Safety	Total	Health	Safety	Total
Formal Complaint	.22	.50	.41	2.1	4.1	3.5
Nonformal Complaint	.21	.45	.38	1.6	3.1	2.7
General Schedule	.17	.35	.34	1.8	4.4	4.2

Oct. 1976-Mar. 1977

CONCLUSIONS

Analysis of the data indicates that complaint inspections are at least as effective, if not more so, than the general schedule method at taking compliance officers to hazardous workplaces. Complaint inspections take longer to perform because more workhours are spent on-site and report writing. It is therefore difficult to reject processing of both formal and nonformal complaints.

On the other hand, permitting an uncontrollable input such as complaints to allocate inspection resources poses serious management difficulties. These can be alleviated somewhat, depending on the extent to which backlogs can be allowed to accumulate. The only complete solution, however, is to increase inspection resources. As noted earlier, substantial demands for priority enforcement efforts are being made that cannot be met now, and will become worse, given even small increases in the existing flow of complaints. Requiring investigation of all complaints coupled with follow-up of serious violations, and fatality/catastrophe/imminent danger inspections will require two-thirds or more of the total inspection force. Important activities such as monitoring abatement agreements and investigating referrals from other compliance officers cannot be performed.

As far as complaints themselves are concerned, the Agency could take action to increase the number of complaints received through expanding public awareness of this "service". Decreasing the number of complaints seems difficult, if not impossible. The most judicious course is probably to allow complaints to come in at their own rate, but to improve the structure through which they are processed. For example, as many as 15% of complaints received are not inspected, as a result of validity checks by compliance officers. This percentage could be increased through development of specific guidelines and ground rules. Also, the classification of complaints by the Area Director into health or safety and serious or nonserious categories could be aided by a casebook which would provide guidelines and examples.

Another problem area has been backlogs. These should be monitored accurately. When they build to an unmanageable or unallowable level in a region, a temporary task force could be constituted to help work them off. Region 5 may be a candidate for this approach now.

Finally, relaxing the arbitrary times by which a complaint must have been processed could materially assist the Area Directors in meeting the other demands for inspection resources. The Area Directors must be able to exercise discretion confidently in categorizing complaints and in scheduling them.

PROGRAM DIRECTIVE

Senator EAGLETON. If an employee files, does he file a complaint? Suppose an employee from *x* company writes a letter, such and such is unsafe at *x* company. Now is that logged in?

Dr. BINGHAM. Yes. Do you want us to comment on our new policy?

Senator EAGLETON. Is there some disposition that must be taken of it?

Dr. BINGHAM. Yes, that is in the act.

Mr. MACKENZIE. Yes. There is a program directive on that of which we will also send you a copy, Mr. Chairman.

[The information follows:]

U.S. DEPARTMENT OF LABOR
Occupational Safety and Health Administration
WASHINGTON, D.C. 20210

OSHA PROGRAM DIRECTIVE #200-69

TO: FIELD AND NATIONAL OFFICES/OSHA

THRU: DONALD E. MACKENZIE
Field Coordinator

Subject: Employee Complaint Processing Procedures

1. Purpose

The purpose of this directive is to provide guidelines and procedures for the scheduling, review and investigation of complaints concerning alleged unsafe and unhealthful conditions at the workplace.

2. Documentation Affected

This directive supplements the policies and guidelines in the OSHA Field Operations Manual (FOM), Chapters IV and VI. Field Information Memorandum (FIM) #76-20, Subject: Complaint Processing, is hereby canceled. In addition, any memorandums or bulletins from the National Office and the Regional Offices to the field which adversely impact the requirements of this directive shall be appropriately modified.

3. Background

a. Field Information Memorandum #76-9 dated March 5, 1976, was issued to ensure that a systematic, technical review of Sections 8(f) and 11(c) (of the Act) complaints was made with the intent of recognizing possible safety and health hazard ramifications in 11(c) complaints and conversely to ensure prompt inspection where there appeared to be safety or health hazards without regard to the formality requirements of Section 8(f).

b. Field Information Memorandum #76-20 dated July 2, 1976, replaced FIM #76-9. It provided instructions for issues not covered in FIM #76-9 as well as clarification of other items.

c. Field Information Memorandum #76-20 significantly increased the complaint workload in the field. The number of complaints received and investigated in some regions overtaxed the resources available. This burden introduced complaint backlogs, reduced inspection activity at some field offices in several important safety and health programs and severely decimated planned regional inspection programs.

4. Explanation

This directive implements guidelines that represent consensus procedures arrived at by the Regional Administrators, their staffs and the National Office. The guidelines are directed at the prompt and timely receipt and processing of all complaints alleging the existence of safety and health hazards in a workplace. It includes all complaints whether or not such complaints meet the formality requirements of Section 8(f)(1) of the Act. The judicious use of this directive should facilitate timely response and investigation of complaints in the field.

5. Action

All complaints, regardless of source or method of receipt, shall be reviewed and evaluated by the Area Director, or designated professional, for (1) possible safety and health implications; (2) determination of classification as imminent danger, serious or other than serious; and (3) scheduling of investigation. The anonymity of all complainants shall be protected under the provisions of Section 8(f)(1) of the Act. Discrimination complaints, Section 11(c) of the Act, will be processed in accordance with Chapter XV of the FOM and current directives. Area Directors shall not construe anything in this directive as a de-emphasis of 11(c) complaint processing. Area Directors and Operations Review Officers shall continue to emphasize thorough reviews of both 8(f) and 11(c) complaints for safety and health and discrimination aspects, and assure prompt forwarding of such complaints to the appropriate action office.

a. Imminent danger.

Any complaint, regardless of source, which in the professional opinion of the Area Director or designee may constitute imminent danger, shall be investigated within 24 hours as outlined in the Field Operations Manual (FOM), Chapter IX.

b. Serious.

The determination as to whether the complaint represents serious hazards will be made by the Area Director or designee using the procedures in the FOM, Chapter VIII. After determining that the alleged hazardous condition may be serious, the Area Director should then establish the schedule for investigation based on professional judgment of the gravity of the hazard. In making this judgment, the Area Director should consider the following:

- Severity of Possible Injury or Illness

Safety:

-Death or permanent disability.

-Loss of sight.

-Amputations: Arm or leg, hand or foot, finger or toe.

-Temporarily disabling injuries.

Health:

-Cancer.

-Chronic (cumulative) toxicity.

-Acute systemic toxicity.

- Hearing loss.

-Nervous system disturbances.

-Respiratory effects.

-Hematologic (blood) disturbances.

-Irritation of eye, nose, throat.

o Probability of Injury or Illness Occurring

-High.

-Moderate.

-Low.

(1) Serious complaints shall be assigned for investigation immediately after imminent danger and fatality/catastrophe investigations, as designated in the FOM, Chapter IV.

(2) All investigations of serious complaints must be initiated within 3 working days or appropriate justification for delay will be entered on the log. If a backlog of serious complaints exceeding 7 working days persists for 20 working days (total of 27 days), the Area Director shall advise the Regional Administrator. The Regional Administrator shall utilize available resources to the maximum extent practical and, if necessary, notify the Field Coordinator and seek appropriate assistance to eliminate the backlog.

(3) Normally, if time and resources permit, the inspection should cover not only violations and dangers alleged in the complaint but the entire establishment of the employer. If there has been a very recent inspection, and the CSHO assures himself that a complete inspection is not necessary, only a partial inspection may be made. However, if the CSHO has reason to believe that similar conditions exist in areas of an establishment other than those areas initially brought to his attention in the complaint, he shall broaden the inspection to include such areas. In each case, the CSHO shall advise the employer of any increase in scope of the inspection at the opening conference or at the earliest possible opportunity.

c. Other than serious.

All complaints determined to be other than serious shall be categorized as "formal" or "nonformal" complaints. Complaints received from employees and/or their authorized representatives, meeting the specified requirements of Section 8.(f)(1) of the Act, shall be categorized as "formal" complaints. All other complaints, regardless of source (including those from alleged employees and/or representatives who refuse to sign the "Complaint," OSHA-7 Form, or other acceptable document or letter), shall be categorized as "nonformal" complaints.

(1) Formal.

Formal complaints shall be assigned for investigation immediately after fatality/catastrophe and serious complaint investigations. Inspections for other than serious complaints made as the result of a formal complaint should be accomplished within 20 working days of receipt. Reports to the Regional Administrator on complaint backlogs should be submitted on a fixed periodic sequence twice a month. Negative reports are encouraged. Regional Administrators are authorized to reduce this requirement to once a month provided procedures are established that prevent unanticipated accumulations. The scope of the inspection shall be the same as that for a serious determination. (See paragraph 5.b.)

(2) Nonformal.

Inspections made as the result of a "nonformal" complaint should be accomplished within 20 working days of receipt. Nonformal complaints which have not been investigated within a total of 30 working days may, at the discretion of the Area Director, trigger employer participation in the form of a letter request to the employer. At the discretion of the Area Director, with appropriate Regional Office consultation, the letter may be sent on an earlier date. (See instructions in paragraph 5.c.(2)(b).) All inspections initiated as the result of a nonformal complaint shall normally be limited to the areas addressed in the complaint. The employer shall be informed of the two categories of complaint inspections--"formal" and "nonformal." The employer shall be informed that it is our policy to respond to all information concerning safety and health hazards, for the protection of employees and the benefit of employers, and that the information has been thoroughly evaluated by senior safety and health professionals prior to scheduling of the inspection. If information concerning an imminent danger situation or serious violation is noted by the CSHO or brought to the CSHO's attention, appropriate action in accordance with the Act must be taken. The employer's representative will be advised as soon as any such conditions are noted.

(a) Reevaluation.

All nonformal complaints which have not been investigated within 40 working days from receipt shall be reevaluated. Action will be taken to determine if the unsafe/unhealthful condition still exists; e.g., contact complainant, if known, employee representative, or any other available source having knowledge of the workplace conditions. The reevaluation also shall include consideration of the applicability of the particular industry's incident rate or current OSHA special requirements for the industry. If the Area Director determines the complaint does not merit investigation or a letter to the employer, send a letter to the complainant, if known, explaining this. Make a note in the case file and log and close the case. If the complainant is not known, note the explanation in the case file and log and close the case. If the Area Director determines that the complaint should be investigated:

(i) Reschedule the investigation. Consideration shall be given to the current priorities established by the National Office; e.g., high hazard industries, specific health areas, etc. If the employer is in one of these categories, the investigation shall be conducted in accordance with the priorities for that category. If not, reschedule the investigation within the other appropriate inspection category.

(ii) Write explanatory letter to complainant, if known, indicating an investigation will be initiated at a later date.

(b) Letter to employer.

If the Area Director realizes that it is unlikely the complaint investigation can be scheduled within 20 working days, he may determine that a letter to the employer is appropriate, and it should be prepared and forwarded.

The letter shall advise the employer of the complaint particulars. The employer shall be asked to investigate the alleged conditions and to report to the Area Office the results of the investigation and the action taken (when applicable). The letter shall also advise the employer of the assistance available; and, inform the employer that an inspection may be conducted at some future date. Write a letter to the complainant, if known, advising the complainant of the action taken. A copy of the letter to the employer may be enclosed. The complainant should be asked to notify the Area Director if no corrective action is taken, or if any adverse or discriminatory action is taken against the complainant.

(c) Complaint log.

A log of all complaints shall be maintained in the OSHA Area Office receiving the complaint. In the event that the complaint is transmitted from the receiving office to another office or agency for action, review or information, the log will indicate a record of the transmittal. The log will also indicate disposition of the complaint. This shall include the fact that an inspection was scheduled and conducted, indicating the date. In the event a decision is made not to conduct an inspection, an explanation will be entered.

6. Effective Date

This directive is effective immediately and will remain in effect until canceled or superseded.

for Richard P. Wilson
Deputy Director, Federal Compliance
and State Programs

Attachment

DISTRIBUTION:
A-1 E-1
B-2 HEW-1
C-1 NIOSH Regional Program Directors-1
D-4 & 5 NACOSH-1
Training Institute-4

(Originator: OCCS)

SAMPLE LETTER

Dear (name of employer-president; plant manager; agent-in-charge):

On (date) we received a complaint concerning safety and/or health hazards at your workplace at (address/or location). The specific nature of the complaint involves (describe complaint in detail).

Based on the above information we have made a preliminary determination that the alleged condition does not appear to involve a working condition which would most likely result in death or serious physical harm. In addition, it appears that you could expeditiously abate the hazard without the need for an inspection.

We urge that you investigate the alleged condition and make necessary corrections and/or modifications. Please advise us in writing of what action you have taken within 30 days.

The complainant will be advised of this correspondence and be asked to provide us with his/her evaluation of your action, if any. You are advised that Section 11(c) of the Occupational Safety and Health Act of 1970 (Public Law 91-596) does apply to this situation. This section provides that "No person shall discharge or in any manner discriminate against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act or has testified or is about to testify in any such proceeding or because of the exercise by such employee on behalf of himself or others of any right afforded by this Act." In addition, Section 17(g) of the Occupational Safety and Health Act and 18 U.S.C. 1001 make it a crime to provide the Federal Government with false information. Accordingly, if the Department learns from the complainant or other sources that you have supplied erroneous information, we will consider invoking appropriate actions under this Act or other Federal statutes.

Please note that any action by you in this matter does not remove your establishment from the possibility of an unannounced inspection. In addition, this letter is not a citation or notification of proposed penalty, which is only issued subsequent to an inspection or investigation, undertaken pursuant to sections 8 and 9 of the Act.

Your personal support and interest in the safety and health of your employees is appreciated.

Sincerely,

Area Director

PROCEDURE FOR HANDLING COMPLAINT

Mr. MACKENZIE. When a complaint is called in or written in, it is immediately logged in each office. And if it is a serious condition, we go out immediately. If it's imminent danger, we go out immediately. When it falls into what we call the other category, a not-so-serious, then we will try and meld it into our resources.

But we keep track of every complaint and follow up on every complaint.

The study will show, I believe—I can't remember the numbers—that in those inspections that are derived from a complaint source, we find more violations than those that are not.

HEALTH STANDARDS

Senator EAGLETON. The budget requests 20 new positions for developing new health and safety standards.

How does OSHA's program differ from the NIOSH activities to develop health and safety standards?

Dr. BINGHAM. Well, NIOSH actually develops a criteria document and provides it to us. This criteria document deals essentially with the health effects that may have been pulled together through a literature review.

What OSHA must do then is take this literature review, look at the technological and economic feasibility, and then actually come up with a standard.

We also may go to other agencies. We may call upon the National Cancer Institute for some aid and advice. We bring everything together and finally come up with a final regulation that is defensible.

What we get from NIOSH is very useful, but it is only a criteria document. It's what I would call a good review of the literature with some suggestions for work practices for the particular chemical in question.

Senator EAGLETON. Well, does this reflect a shift in emphasis in any sense from NIOSH to OSHA, or in the standards setting area?

Dr. BINGHAM. I don't think it does. This request just says that we think we have to develop more health standards rapidly. There have been very few occupational health standards put out by the Agency over the last 7 years.

Seventeen hazardous substances have been regulated. What we are now trying to do to speed up the process is to develop so-called generic standards. We just need more people to help us come up with these regulations.

It's also turned out that the rulemaking procedure and the evidence that it takes to defend our standards legally is becoming more rigorous.

Industries are applying enormous resources to fight every standard that comes down the road. The rulemaking process has become very long and laborious. Where before, a person could work on a health standard for a certain period of time, that period of time is now doubled because that individual must take it through the lengthy rulemaking process and its followup.

It is just very much longer and complicated. We do not have health standards out for those 1,800 pesticides that are registered. And we must come to grips with it.

Senator EAGLETON. How many new health and safety standards do you think you will set the next fiscal year?

Dr. BINGHAM. In the budget we are projecting 17 new health standards and two new safety standards in fiscal year 1979. I just signed one yesterday for benzene, by the way.

Senator EAGLETON. How many do you say, 1,700 what?

Dr. BINGHAM. 1,800 pesticides. Let me tell you what we are going to do there. We are going to try to develop a generic standard for the manufacture and formulation of pesticides. That is, we will classify pesticides according to the type of health effect that they induce and then prescribe a general set of work practices that companies must follow when handling that class of pesticides.

ONSITE CONSULTATION

Senator EAGLETON. Is there much utilization, or is there much demand for onsite consultation services?

Dr. BINGHAM. Would you want to comment on that, Ms. Nelson?

Ms. NELSON. We have made strides to expand our onsite consultation program. In approximately 2 years, we have made slightly more than 68,000 onsite consultation visits for the purpose of offering consultation based on employer requests. We expect that in fiscal year 1978, we should be doing some 34,000 to 35,000 visits, and possibly up to 38,000 visits in fiscal year 1979.

We do intend through the plan that we have submitted to this committee to have onsite consultation services available to employers in all States by July 1 of this year, either through State contracts or through contracts to use private consultants, universities, or extension services to help employers eliminate hazards in their worksites.

Senator EAGLETON. So are you an optimist, or a pessimist about onsite consultations?

Ms. NELSON. We are optimists.

Mr. MACKENZIE. I would like to give an example of that. A couple of years ago, Mississippi had a section 7(c)(1) program for a short while. They later dropped it because of a legal implication; but in 1 week's time, they had 51 requests from businesses for consultations.

And I think that these small businesses especially have a need for consultation as they often don't have engineers on their staff——

Senator EAGLETON. I was going to say: Are most of these onsite consultations with smaller businesses?

Ms. NELSON. Our regulations are specifically directed at providing this service to small business employers, with emphasis on those small businesses that have hazardous substances in the workplace.

Senator EAGLETON. Apparently some States, they don't wait for a customer to request it or employer, they initiate the service, it says here, by visiting employers who have not requested.

Is that correct? Do they do it that way? And if they do, why don't you?

Ms. NELSON. Our regulations under the 7(c)(1) funding prohibit that.

Senator EAGLETON. That is a pretty good answer. All right, let's suppose an employer had an OSHA consultant come in, and as a result thought he had put his workplace in full compliance. Then suppose an OSHA inspector came by and found apparent violations that were overlooked by the consultant. Would that employer get special consideration with respect to citations?

Ms. NELSON. We are working on a program directive now that would mitigate the penalties in such cases. We would give what we call good faith credit to an employer who had properly utilized consultation services.

Senator EAGLETON. I think you should The IRS—I don't use them—but the IRS will consult with me about my income tax return. I would be embarrassed, to say the least, if they prepared it and I got indicted.

Ms. NELSON. Senator, I wish I could give you a pat answer on the issue of can we certify a workplace safe—now and forever—the day that the consultant leaves the workplace? But it is so difficult because of the changing work force, the changing substances, changing conditions to really certify here and forever anything as being safe.

Senator EAGLETON. I appreciate that fact. But as was pointed out, the grain elevators can look pretty good today, but dust levels can change.

Ms. NELSON. So we would rather look at the good faith of the employer. The employer who asked for consultation and followed the advice deserves consideration.

Dr. BINGHAM. One of the things about our consultants is the quality of them. We have insisted that there be an upgrading in the expertise of consultants, because I think it would be a horrible thing to give advice to an employer and have that person spend money, and then have that advice be poor. I worry about that kind of a situation occurring.

Senator EAGLETON. Yes. If the consultant says, well, you need a special kind of a door—I am just making up something in my head—and the guy says, OK, I better go get the special kind of door, then if you cite him because he has got the wrong kind of door you look pretty silly.

Mr. MACKENZIE. Not only that, it would destroy the credibility of the consultant.

CONSULTATION REPORT

Senator EAGLETON. Yes. At this point, we will include in the record a copy of the Labor Department's report to this committee on OSHA consultation services.

[The report follows:]

THE DEPARTMENT OF LABOR'S PLAN FOR PROVIDNG CONSULTATION UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 (Public Law 91-596)

The Conference Report on the Fiscal Year 1978 Department of Labor-Department of Health, Education, and Welfare appropriations bill (H.R. 7555), contains the following instruction to the Department of Labor:

> The Secretary of Labor is hereby directed by the Conferees to develop a detailed plan for providing mandatory consultation services to all small businesses in all States and Territories and submit it to the House and Senate Appropriations Committees by January 1, 1978.

This report details the Department's plan for providing on-site consultative services to employers, particularly smaller businesses, in all States and Territories. The plan has been developed to provide the maximum assistance possible under the Occupational Safety and Health Act of 1970 (OSH Act) through increased educational, informational, and training efforts for employers in order to increase their competence in locating and eliminating hazards to the safety or health of their employees. The Department's program of on-site consultative services has been expanded to further encourage the participation of all States and Territories with the goal of providing consultation to all employers. To date, 39 States and Territories provide on-site consultation to employers. OSHA is fully committed to making these services available in every jurisdiction. Consequently, through agreements with States and utilization of private sector resources, the Agency plans to have on-site consultation in all States and Territories by July 1, 1978.

Background

Virtually since its inception, OSHA has been urged to provide assistance to employers in complying with the

OSH Act. Proponents of the need for this service have maintained that the expertise needed to understand and comply with OSHA's safety and health standards is neither readily available nor easily affordable. Small business employers in particular are unable to retain on a continuing basis industrial hygienists, safety engineers, or others with the required professional background to advise them on the application of OSHA standards and regulations.

As both a legal and policy position, the Department of Labor has consistently interpreted the Occupational Safety and Health Act to preclude Federal OSHA representatives from entering and inspecting a workplace without issuing citations and appropriate penalties for any violations discovered. This position is based on the statutory scheme and the specific language of the Act.

In recognition of the Department's consistent position in this regard, the Congress, on a number of occasions, has directed OSHA to take action to facilitate and expand consultation activity by the States.

Consultation by the States

States with approved occupational safety and health plans have offered on-site consultation as part of their plans since 1972. Because there is no comparable program provided by Federal OSHA, the States are not required to provide on-site assistance as part of their plans. However, of the 25 States or jurisdictions operating their own job safety and health plans, 18 currently offer consultation as a part of their approved plan, with 50 percent Federal funding.

In addition, 6 approved plan States and 15 non-plan States or jurisdictions are providing consultative services through the authority of section 7(c)(1) of the OSH Act. This section authorizes the Secretary to accept and use

the services of the States or political subdivisions in carrying out responsibilities under the OSH Act. Federal funding for consultation agreements under this section has been specifically provided since Fiscal Year 1975. An amendment to the DOL-HEW appropriations bill that year enabled OSHA to enter into agreements with non-plan States through which State personnel perform consultative visits on a contract basis.

OSHA originally funded the 7(c)(1) contract program at 50 percent in order to maintain parity with the funding level for State programs pursuant to section 18 of the OSH Act. In a June 1976 report (Senate Report No. 94-997), the Senate Appropriations Committee directed OSHA to "change the match for State on-site consultation to such a level as will assure full State participation in this program." In response to this congressional directive, the Agency now supplies 90 percent of the cost of State consultation efforts under section 7(c)(1) and has expanded eligibility under the program to include States with approved plans. As a result of this increase, 6 approved plan States have switched their consultation programs from the 50 percent funding under section 18 to the 90 percent funding under section 7(c)(1); and 3 new non-plan States have entered into 7(c)(1) agreements.

The 90 percent funding level is intended to provide a strong incentive for additional States to offer consultation while maintaining some financial commitment themselves. Through personal contacts with State officials, regional conferences and national office participation in negotiation of 7(c)(1) contracts, OSHA is actively continuing to encourage States to join in this program.

Thirty-nine States thus provide on-site consultation at no expense to employers through either the section 18

or 7(c)(1) provisions. An appendix to this report provides lists of these States. From July 1975 through September 1977 the States have given a total of 68,666 consultations.

Requirements for State Consultation

On August 16, 1977, OSHA issued regulations comprehensively setting forth requirements for consultative services. Under these rules, federally supported state consultation programs must publicize the availability of the service and encourage employers to request consultative visits. The State is to explain that consultation is provided at no cost to the employer and that the employer remains under a statutory obligation to provide safe and healthful working conditions for employees. Consultation visits are to be provided only at the request of the employer. A consultant is not authorized to make an unscheduled appearance at the workplace of an employer who has not made a request for a consultative visit. In scheduling consultation, the State must give priority to requests from smaller businesses, based upon number of employees, with emphasis on high hazard workplaces. This is consistent with OSHA's policy of focusing assistance upon small business employers who, in many cases, may have neither sufficient financial resources nor technical expertise to understand or comply with their statutory obligations.

During the on-site visit, the consultant focuses on the conditions, hazards, or situations described by the employer in the request. To help employers understand their obligations under the OSH Act, employers are advised as to safety and health responsibilities under applicable Federal or State law. To the extent of their capability and training, consultants will identify workplace hazards and provide advice on elimination of these conditions. The consultant may perform sampling tasks and make environ-

mental tests for toxic substances. Advice and technical assistance on the elimination of identified safety and health hazards may be provided to employees during and after the on-site consultative visit. The consultant may also provide descriptive materials regarding approaches, means, and techniques commonly used to eliminate or control hazards. Employers are advised of additional sources of assistance, if known.

If the consultant determines that an identified hazard would be classified as a serious violation of the OSH Act, the consultant and employer are to develop a specific plan for eliminating the hazard, affording the employer a reasonable period of time to complete the necessary action. Employers are also required to take immediate action to eliminate conditions or practices which present an imminent danger to workers. If an employer fails to take necessary action, the consultant is required to notify appropriate OSHA enforcement authorities.

Following a consultative visit the consultant prepares a report to the employer to assist in identifying workplace hazards. This report describes the working conditions examined by the consultant, identifies the types and extent of workplace hazards present, and, to the extent possible, suggests methods of elimination or control. Also included are additional sources of assistance, if known, including the possible need to obtain specific engineering expertise, medical advice and related professional services.

On-site consultation provided by a State must be conducted independently of any Federal or State enforcement activity. Employers receiving consultative visits are not to be identified to OSHA unless the employer fails to take the necessary action to protect employees from an imminent danger or serious hazard.

Employers are encouraged to take advantage of on-site consultative services after an inspection by OSHA enforcement authorities. If a citation is issued, such services are available after a citation item has become a final order. A citation becomes a final order if the employer does not file a notice of contest within the number of days specified under the OSH Act or State law, or, if the notice is filed, after a final decision of the Occupational Safety and Health Review Commission or corresponding State authority. This policy maintains consultation and enforcement as separate activities and avoids the involvement of consultants in litigation proceedings. Such involvement would divert scarce consultant resources and dilute the effectiveness of consultation activity to employers.

Improving State Consultative Services

The Department is firmly committed to a program of upgrading consultative services in order to meet the needs of the nation's employers, particularly those in small businesses, who request advice on identification and elimination of hazards. Well-trained, highly qualified consultants are essential for an effective program. Consultants must understand the applicable Federal or State Act and standards in order to fully inform employers of their obligations. In addition, as indicated in the preceding section, consultants should be able to offer advice on elimination or control of hazards and on financial and technical resources available to the employer to implement improvements in the workplace environment.

Accordingly, the new regulation providing 90 percent funding also includes a provision which will require participating States to develop a plan for upgrading consultant qualifications. In developing this plan, the State shall consider the particular types of business activities in

the State and types of hazards present in order to determine the appropriate consultant qualifications necessary to meet the needs of employers.

Private Consultative Sources

OSHA recognizes that certain States will probably not provide an on-site consultative program regardless of the portion of cost provided by the Federal Government. These States have either State legal or fiscal constraints preventing their participation or have demonstrated public policy or philosophy opposed to the concept. However, OSHA is committed to making on-site consultation available in every State. Accordingly, OSHA is pursuing other sources of consultative services from the private sector with 100 percent Federal funding. OSHA is now preparing Requests for Proposals designed to enlist applications from private sector sources such as insurance companies, universities and community colleges, consulting firms and others. OSHA has discussed this initiative with educational institutions and private consulting firms and other representatives of the private sector who have also indicated a desire to participate. Through a combination of State and private sector consultative programs OSHA expects to have on-site consultative services available to all employers, with emphasis upon those with small businesses, in every State by July 1, 1978.

Consultation During the Inspection Visit

OSHA's compliance visits provide another opportunity for employers to receive advice in the nature of consultation. After each workplace inspection OSHA compliance officers are required to hold a closing conference with the employer to discuss possible citations and proposed penalties. At this conference employers are informed of the nature of any possible hazards found and the probable abatement periods. Compliance officers have been instructed to offer abatement

advice at this time and at any other time during the inspection visit. The Agency has also developed two publications to assist employers in understanding their responsibilities and rights following an OSHA inspection. These pamphlets are entitled "OSHA Closing Conference Guide" and "Employer Responsibilities and Courses of Action Following an OSHA Inspection."

After the inspection, the employer may request an informal conference with the local Area Director to discuss the results. This can also be an opportunity for employers to obtain a better understanding of the applicable standards and methods for correcting violations. OSHA is now preparing a program directive reemphasizing to its field offices the need to provide the maximum amount of assistance possible under the OSH Act.

Additional Sources of OSHA Assistance to Employers

Consultation and advice have continually been given at OSHA Area Offices located in every State. Employers are encouraged to discuss specific workplace safety and health problems at the Area Office or over the telephone. Employers often bring photographs, diagrams, or workplans in order to focus discussion upon the particular conditions needing corrective action. The Agency intends to further upgrade this assistance.

OSHA has published a handbook specifically for small businesses. This booklet, which has been highly popular with employers as an informational source, is designed to assist small business employers in meeting OSHA requirements prior to an inspection. It includes a self-inspection checklist and a list of sources of assistance in evaluating workplace safety and health conditions. Nearly two million copies have been printed and distributed through OSHA field offices, State labor departments, local safety councils, insurance companies, and business associations.

OSHA has also experimented with the use of a toll-free telephone service in its Chicago and Atlanta Regions. These lines are used for a variety of purposes, including response to technical questions concerning standards and suggestions about effective approaches for abating specific violations. In the Chicago Region a prototype program has been instituted using experienced compliance officers as direct contacts with small business employers. Through telephone discussions, direct mailing of information, and referral to existing sources of advice and consultation, the pilot project is designed to afford ready access to informational sources for small business employers. Its greatest value lies in the use of local personnel familiar with the unique workplace situations and safety and health problems in the area.

In addition to these assistance programs, OSHA is taking other steps to deal with problems of particular concern to small business employers. For example, OSHA has eliminated what many employers considered to be "nuisance" penalties: monetary penalties for violations which are other than serious, willful, or repeated, when those penalties would amount to less than fifty dollars. This is in addition to the funding limitation in the 1977 and 1978 DOL-HEW appropriations bills prohibiting assessment of penalties where fewer than 10 other-than-serious violations are cited.

The Department recognizes that employers, particularly small business employers, have a special need for advice, information, and assistance in understanding their obligations. This plan for on-site consultation in every jurisdiction will enable employers to learn about specific hazards in their workplaces and the action necessary to eliminate those hazards. The Department believes on-site consultation can assist employers in complying with the Act and further the objective of OSHA, to provide safe and healthful working conditions for more than 65 million workers.

APPENDIX

States Providing On-site Consultation Through Section 18 Plans.

Arizona	New Mexico
Colorado	Nevada
Hawaii	North Carolina
Indiana	Puerto Rico
Tennessee	Iowa
Vermont	Kentucky
Virgin Islands	Maryland
Washington	Michigan
Wyoming	Minnesota

States Providing On-Site Consultation Through Section 7(c)(1) of the OSH Act.

Alabama	New Jersey
Alaska *	New York
Arkansas	Ohio
California *	Oklahoma
Connecticut *	Oregon *
Delaware	South Carolina *
District of Columbia	Texas
Illinois	Virginia *
Kansas	West Virginia
Massachussetts	Wisconsin
Nebraska	

* designates approved plan State

Since OSHA began compiling statistics in July 1975, through September 30, 1977, 46,895 consultative visits have been made by States with approved job safety and health plans, and 21,771 consultative visits have been conducted in non-plan States with 7(c)(1) programs.

The significant difference in number of consultative visits between approved plan States and 7(c)(1) States results mainly from two factors: there were fewer States making 7(c)(1) consultative visits during the reporting period, and there have been differences in the definition of a consultative visit.

EXECUTIVE ORDER ON ECONOMIC IMPACT STATEMENTS

Senator EAGLETON. What is going to be the impact if President Carter issues his executive order on economic impact statements?

Dr. BINGHAM. We are still working under the old executive order, but I think that perhaps we are already doing most of those things that the new executive order would require.

As a matter of fact, when I came to the agency I decided that we should start making a list of proposed regulations. And so the new executive order is just formalizing some things that we already do. I think that it will not increase the burden over what we are already doing.

Senator EAGLETON. Well, if that is the case, why is Carter going to be issuing a new executive order?

Dr. BINGHAM. Well, I guess every administration reexamines policies. However, this new executive order will require that agencies come out with a list of proposed regulations. The other order did not do that. So under the new order there will be notice ahead of time of what will be regulated.

Senator EAGLETON. I won't read this whole memo, but it is from my guy in the Kansas City office that says, "Please don't let Eagleton rip up Mrs. Bingham." This person out there says, "I think she is trying to do a good job." [Laughter.]

JUSTIFICATION

[CLERK'S NOTE.—The justification material for this account appears in the House fiscal year 1979 Labor-HEW Appropriations Subcommittee hearing record.]

QUESTIONS SUBMITTED BY SENATOR EAGLETON

I have additional questions which I will ask you to answer for the record.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

Questions Submitted By Senator Eagleton

HEALTH MATTERS

Question: OSHA has drastically increased its health manpower resources over the past year. A key issue is OSHA's and NIOSH's ability to attract qualified, technical personnel to carry out its health responsibilities. What use are OSHA and NIOSH making of paraprofessionals to assist industrial hygienists and researchers developing and enforcing health standards?

Answer: OSHA's career development program for newly hired industrial hygienists is a three-year process of formal classroom instruction and on-the-job training supervised by experienced compliance officers. The original enrollees of this program are now in a stage of development at which they can assist experienced industrial hygienists in sampling, calibrating and other basic industrial hygiene tasks. Thus, there is no pressing need for paraprofessionals at this time since "apprentice" hygienists are performing these kinds of tasks on the way to becoming journeymen hygienists. OSHA anticipates a need for paraprofessionals shortly as its recently hired employees assume full duties. At that time OSHA will evaluate current employees to determine if it is effective to train these people for paraprofessional positions and will also consider external sources of manpower for paraprofessional positions.

With regard to the actual increase of health manpower resources, it should be noted that the agency only recently passed the 500 mark in terms of on-board field industrial hygienists. However, only approximately 140 of these positions are occupied by journeyman-level hygienists.

Question: How do OSHA and NIOSH insure that the sampling methods, procedures, and laboratory analysis are adequate to insure accurate readings of toxic substances present in the workplace?

Answer: As indicated above, OSHA utilizes trainee industrial hygienists -- for the most part persons with appropriate baccalaureate degrees -- in the collection and analysis of on-site data and other measurements of toxic substances. There are two sources of "quality control" to insure accurate findings. All such junior-level or trainee industrial hygienists are directly supervised by a fully qualified industrial hygienist while in the workplace environment. The findings of the apprentice hygienists are then reviewed and certified by the senior staff member. In addition, OSHA has published a detailed industrial hygiene operations manual. This publication lists very precise and step-by-step methods which have been verified in controlled laboratory situations, industrial on-site experience, and are generally accepted methods recognized by the professional industrial hygiene community.

STATE PROGRAMS

Question: Twenty-five States receive funds to operate occupational safety and health programs under OSHA approved plans. A key issue is what criteria OSHA will use to determine whether States' programs should be approved as "at least as effective as OSHA's" and whether such criteria is adequate considering many of the alleged inadequacies in the OSHA program. If a State is approved as "at least as effective as Federally administered OSHA", what activity will OSHA perform to insure that the State maintains such status? How will OSHA's oversight of the State change from what it performed prior to approval of State-administered OSHA programs?

Answer: OSHA has adopted a management objective to provide for uniform monitoring during all phases of a plan's life. Both statistical and on-site monitoring of the State's program will continue, with increased emphasis on the use of on-site monitoring to diagnose and expedite correction of specific problems in State performance. Subsequent to a favorable decision under Section 18(e), therefore, the agency will not change significantly the oversight that it conducts, but instead will strengthen its monitoring system to provide more information throughout the life of the plan.

OSHA has published formal criteria for plan approval in 29 CFR 1902, including general criteria for initial approval and performance-oriented criteria for a "final" 18(e) determination. However, these general criteria lack firm quantitative expressions in most instances. A revision of the State program monitoring and evaluation system has been undertaken which will, in an early phase, quantify these criteria. At this time the precise mechanics of this process have not been completed, but we intend to solicit public input before any quantitative measures are finally accepted. It is understood that that these criteria, however expressed, must remain flexible enough to apply to the particular conditions in each State.

The recent Appeals Court decision (AFL-CIO, IUD, v. Marshall) will significantly affect these criteria, especially State staffing levels and overall resource needs. The impact of this decision will be determined by the order to be prepared by the U.S. District Court. However, we believe that the criteria-setting effort we have already planned will be appropriate.

The Court's decision looks beyond "as effective as" to ultimate effectiveness as the criterion for continued plan approval. It may be that OSHA will meet the court's requirements by defining specific effectiveness goals for the program and that it will measure State effectiveness also in relation to those goals. This approach leaves the need for direct Federal-State comparisons open to questions. However, since the impact of the decision on other program areas is not well defined, no definitive statements can be made at this time.

Question: If a State is found to be not as effective as OSHA, will OSHA reassume full Federal authority in that State or will the State be given indefinite extensions to continue to try to bring its program up to par?

Answer: If a State is found to be defective in its performance, worker protection will be assured through Federal enforcement. This step has already been taken in three States to date. A decision is still pending on States whose performance is uneven or whose deficient performance is limited to "gray" areas. For example, should a State be allowed to continue to operate a program if its penalties are double those of OSHA, or one-half those of OSHA? Should the program be withdrawn if only 50 percent as many serious violations are found or if Federal monitors can find performance deficiencies in hazard identification? These questions are answerable on a case-by-case basis, but not as a class. OSHA's monitoring system now identifies differences in performance, but not in such a way as to precisely determine which differences constitute problems. As indicated earlier, the new quantitative criteria will help. In the interim therefore, resumption of full or issue-selective Federal enforcement is an active possibility.

The agency will not grant indefinite extensions to allow a State to measure up to specific criteria of performance or effectiveness. The implications of the court decision discussed above, however, may substantially effect the specific amount of time required to meet and maintain those criteria.

LATE RETURN OF MATERIAL

Question: In the past two years OSHA has been the last agency to return materials for the record, thus delaying printing of the entire Labor Department hearing transcript. Can you assure us all material for the record will be provided this year within five days after you receive the rough transcript?

Answer: Last year the agency was in the midst of a major reorganization initiated by the previous administration, and the Carter Administration's Assistant Secretary and Deputy Assistant Secretary --as well as other top policy staff--had not yet been appointed. It is probable that there was some misdirection or lack of direction, and some communication failure. The Committee may be assured that OSHA's responses for additional material this year will be timely.

SENATOR DOLE AMENDMENT

Question: In order for an OSHA inspector to determine if there is a violation, he must know what constitutes compliance. Why shouldn't inspectors, therefore, be permitted to provide on-the-spot consultation services with employers before fines are issued for citations, as proposed last year by Senator Dole? How much will it cost to implement the Dole recommendation? What other problems are there in instituting the Dole amendment?

Answer: OSHA encourages States to provide on-site consultation and will have consultation services available upon request in all States and territories by July 1, 1978. The Agency opposes the Dole amendment, however.

If this amendment were enacted OSHA would be forced to conduct "follow-up" inspections to determine compliance with violations of an other-than-serious nature, a procedure now followed only for serious violations. This would result in a significant decrease in OSHA's total workplace coverage.

The Dole amendment would have resulted in OSHA spending significant funds to concentrate on relatively minor infractions rather than focusing on the most serious threats to worker safety and health. This contravenes the Agency's initiative to redirect its efforts away from minor violations--an initiative that has received widespread approval. If OSHA were to continue concentrating on serious violations as well as implementing the Dole amendment, it would require approximately double the current compliance resources.

A preferable alternative is the course OSHA has adopted: consultation from State and private sector sources through which consultants identify workplace hazards and, to the extent possible, suggest means of hazard elimination and control. Additional sources of assistance are also suggested by the consultant, if known, such as specific engineering expertise or medical advice. Also provided are a variety of consultative and informational assistance during an OSHA inspection and even subsequent to the issuance of a citation when the citation has become a final order of the Occupational Safety and Health Review Commission.

OSHA compliance officers have been instructed to provide the maximum amount of assistance possible under the OSHA Act during the workplace inspection and at the closing conference following the inspection. After an inspection, the employer may also request an informal conference with the local Area Director to discuss the results and possible methods for abating any hazards discovered.

The Dole amendment would cause a decrease in the use of these sources of assistance. It would provide a disincentive for voluntary compliance with the OSH Act as employers might await an OSHA inspection, gambling on being cited solely for other-than-serious violations instead of taking steps to correct these workplace conditions.

CONSULTATION SERVICE SPENDING

Question: You are asking for a $3 million increase to strengthen consultation services in those States which do not operate their own OSHA programs. How much was actually spent last year of the $9 million appropriated for consultation services under Section 7(c)(1) of the OSHA legislation?

Answer: In FY 1977, OSHA acted on the directive from Congress to

increase State participation in the on-site consultation program by increasing the Federal share of contracts negotiated under Section 7 (c)(1) of the Act to provide those services. The enabling regulations were published in August, 1977 and new 7(c)(1) contracts were immediately negotiated. Six States which were already providing consultation as a part of their 18(b) operations, converted the consultation portion of their State plan to the newly authorized 90-10 contracts, and twelve States converted their existing 50-50 funded 7(c)(1) contracts to 90-10 contracts. Three additional States also decided to take advantage of this new program. In total, $3 million was expended during FY 1977 under the 50-50 agreements before the new regulations went into effect. In 1978, 21 States have been awarded 90-10 contracts. Current expenditure rates indicate that $9 million will be expended in 1978. In addition, other states have indicated interest in joining the program. OSHA is asking for relief from the $9 million appropriation limitation to accommodate these requests.

Question: In addition, what do you expect the States with approved plans to spend in fiscal year 1979 for consultation services from OSHA grant funds, compared to last year?

Answer: It is expected that States with approved plans will expend approximately $2.0 million of Federal funds on consultation during FY 1979. This compares to $1.9 million that we anticipate being expended during FY 1978.

GENERAL PROGRESS, NEW OSHA ADMINISTRATION

Question: What have you done to reach your goal of increasing compliance activities directed toward serious health problems?

Answer: OSHA has taken a number of steps to direct its enforcement resources to the most serious health hazazrds. All regional and area offices have been given increased authority to allocate professional resources within two guidelines: an overall goal of directing 95 percent of OSHA's programmed inspections to industries with the most serious safety and health hazards; and a directive to devote at least 70 percent of professional staff activity to inspection or inspection related functions. Both instructions are being closely monitored by OSHA's Office of Field Coordination and Experimental Programs.

In order to direct OSHA compliance efforts in the area of occupational health, OSHA has issued, as indicated earlier, an Industrial Hyiene Field Operations Manual. Chapter IX of this document classifies more than 500 chemicals studied by OSHA and the American Conference of Governmental Industrial Hygienists. The substances are categorized by the health hazard they present; OSHA compliance officers are instructed as to when exposure to each substance should be considered serious or other-than-serious. OSHA's health compliance program will thus be uniform and consistent and will concentrate upon the serious threats to worker health. The agency also plans to publish a health inspection programming model similar to the safety programming system. This will provide precise guidance for each Area Office on establishing health inspection itineraries which will maximize the effectiveness of relatively scarce health inspection

resources, and which reflect the specific industrial profiles within the individual area office jurisdictions.

Question: What have you done to improve the volume and effectiveness of OSHA education and consultation activities?

Answer: Consultation will be enhanced by the recently published regulations for 90 percent cost reimburseable 7(c)(1) operations for States providing consultation to employers upon request. OSHA has also increased the range of promotional and request generating activities which a State project may undertake. The remaining jurisdictions will be covered through private suppliers under contract to OSHA. The Agency believes, therefore, that a significant increase in the number of requests from employers, especially those operating small businesses will develop during the remainder of 1978 and carry well into 1979.

The effectiveness of project activity and each consultant's in-plant activity will be enhanced by a three-fold effort: (1) State self-monitoring programs which will build in a quality on-site performance review on a continuing basis, with a back-up capability at the OSHA regional office or through contractor assistance; (2) Individual consultant (and overall project) upgrading plans which will result in increased consultant training, both generally and in specific industries important to each State; and (3) Increased State ability to generate requests from establishments in high hazard industries.

In the area of employee and employer education and training, OSHA has long recognized that the Federal Government will not have the resources to provide direct training for more than a very small fraction of the employer and worker populations covered by the Act. Until this year, OSHA's training and education program has mainly emphasized the direct training of certain critical populations and the development and dissemination of educational materials. While there remain a number of areas of critical concern, surveys of the extent and quality of safety and health training indicate that the objectives of the Act can be more effectively accomplished through improved institutional capability and competency. With financial and technical assistance, institutions can assume a greater role in improving the occupational safety and health skills and the ability of institutions to assume this role have been demonstrated through short-range, planning and developmental funding in a number of OSHA-sponsored programs over the last five years. It has been demonstrated that this is not only a cost-effective way of providing education programs for employers and workers, but is also the only feasible way of ensuring broad-based, long-term improvements in technical competency and awareness. With the increased funds requested for employer-employee training, OSHA will implement a major program to develop internal institutional competence in organizations to provide occupational safety and health training and technical assistance to workers and employers. Funds will be provided to education, labor, employer, and related organizations on a multi-year basis to assist in planning and developing their occupational safety and health competency and capabilities. Two further objectives of the program will ensure that the volume and effectiveness of OSHA activities will be improved. First priority

will be given to serving employers and workers who will serve other employers and workers. Second priority will be given to institutions which during the funding period will assume an increasing share of financial support for the project with the ultimate goal, in most cases, of conducting the project on a self-sustaining basis.

Question: What have you done to explore options to introduce a self-enforcement program beginning in Fiscal Year 1979?

Answer: The agency has undertaken an objective to explore, through policy research and demonstration projects, various options for implementing a program of voluntary hazard abatement in 1979. Possible projects concern increased voluntarism in the workplace including mechanisms such as labor/management committees, on-site consultation, information and education, as well as new areas such as small business self-compliance informational materials, incentives related to installation of systems and equipment, medical surveillance services, business/medical school linkages for continuing management education programs, et cetera.

Individual R&D projects will be established toward the end of FY 1978 or FY 1979. It should be noted that this Agency has never intended to implement a self enforcement "program" in FY 1979 as either a requirement for all employers or as a mechanism by which employers would be exempted (on a long or short term basis) from their general responsibilities under the Act, from specific standards requirements, or from inspections.

Question: What have you done to reorganize the Department to eliminate obsolete OSHA units?

Answer: Prior to the 1976 Presidential election a reorganization of the OSHA national office staff had been initiated. After study, it was this Administration's determination that, with some modifications, this reorganization proposal would result in more responsive and effective national office work units.

The major thrust of this realignment was threefold: (1) establish a central unit to coordinate policy, operational guidelines, and communications with our field personnel, (2) provide a broad range of engineering and other technical support to both the field and the national office, and (3) combine our employer and employee service programs, that is, consultation and education, under a single director. The reorganization is now almost completely in place.

There have been some savings as a result of the reorganization and a reduction of 25 positions in the overhead staff category is being proposed for 1979.

Question: What have you done to improve the delivery of services generally?

Answer: OSHA has made strides toward strengthening its management structure and its administrative processes. This is resulting in a marked improvement in all aspects of the agency's program. The agency has filled nearly all of its leadership posts, and the Office

of Field Coordination and Experimental Programs was established to transmit national office policy to the field and ensure that it is correctly implemented.

The agency has also adopted a resource allocation and program planning policy that directs OSHA field offices to allocate inspection resources within specific guidelines. This policy requires that at least seventy percent of OSHA field resources be used for Federal compliance activities and that 95 percent of programmable inspections are directed to high-hazard industries. When regional or area circumstances strain available resources, personnel from other OSHA offices will be dispatched to assist the overtaxed field offices.

Other improvements are also being undertaken. These include better use of data from OSHA's Management Information System to assist in making policy decisions and targeting inspection resources, and a standards management committee, which includes representation from the Department's legal offices. Its function is to plan, coordinate and provide accountability reporting for the major safety and health standards issues through the complex promulgation process.

Question: What have you done to improve cooperation with State and local governments?

Answer: OSHA's regional and area office officials meet regularly with State officials responsible for State plans. Periodic meetings between the Assistant Secretary and State plan designees have also been initiated. The goal of these meetings is to improve communication and to provide advance notice on new directions in the Federal program.

In addition, in March 1977, regulations allowing the approval and funding of State plans for public employees only were promulgated. Letters encouraging State participation were sent to Governors in all non-plan States. Under the Act, State and local government employees receive OSHA protection only through the existence of a State plan.

OSHA PROPOSED GENERIC POLICY FOR CANCER-CAUSING AGENTS

Employee Protection

Question: By proposing your new cancer policy, aren't you lowering your standards for employee protection?

Answer: The proposed cancer policy does not represent a reduction in worker protection. The Occupational Safety and Health Act of 1970 directs OSHA to set standards which, to the extent feasible, assure that no employee will suffer impairment of health from exposure to harmful chemicals. In regulating worker exposure to carcinogens where no "safe level" or threshold can be demonstrated, OSHA has assumed, as a prudent policy matter, that no "safe level" exists, and employee exposure is reduced to the lowest feasible level. This consideration of feasibility will be part of the standards development process under the cancer policy as it has been in the development of previous standards. OSHA standards for asbestos, coke oven

emissions, and vinyl chloride have required not only technology which is immediately available, but also that which can be developed as a result of the incentives resulting from OSHA regulation. The cancer policy does go beyond previous standards by proposing that if suitable substitutes are available which are less hazardous to the employee, then no exposure to the regulated substance would be permitted.

Health Standards

Question: By proposing your new cancer policy, aren't you deferring to NIOSH once and for all to control the issuance of your most important health standards? How will your new cancer policy affect your program of issuing health standards generally?

Answer: The proposed cancer policy does not result in deference to NIOSH of our regulatory prerogatives. NIOSH, as OSHA's sister agency, will continue to be an important source of data on various health and safety problems, and will participate in OSHA's rulemakings. NIOSH's listing of suspect carcinogens is useful to OSHA in providing a listing of chemicals on which to focus our standards development program under the cancer policy.

However, OSHA will be examining the evidence on chemicals from many sources in determining which substances should be the subject of rulemakings. Further, OSHA will conduct the rulemaking procedures in accordance with the requirements set forth in the Act, and will make the final determinations as to the order in which certain chemicals will be regulated and as to the specific provisions of the resulting standards.

The cancer policy is intended to expedite the process of issuing standards and thereby increase the number of standards for substances meriting regulation. For example, certain issues common to recent OSHA rulemakings, such as the question of a "safe" level for a carcinogen, would be determined inappropriate for further discussion. However, certain issues such as the proper classification of a substance or the feasibility of the proposed standard, would continue to be the subject of comment and testimony.

OSHA Standards

Question: How do you intend to speed up your standards setting operations within the next year?

Answer: Additional staffing will be one means by which the number of standards which we issue will be increased. The Directorate of Health Standards Programs is completing the recruitment of managers for its five offices, and the managers which have been selected are recruiting capable and experienced staff for their respective offices.

"Generic" approaches to standards setting are being developed which will speed coverage of many unregulated or under-regulated health hazards. The cancer policy described earlier is one of those approaches, and as such will also expedite the process. OSHA intends

to issue a generic standard for the regulation of the hazards present in the manufacture and formulation of pesticides. Pesticides have been the focus of considerable concern recently with the "emergencies" related to kepone, DBCP and others. The pesticide standard would apply wherever pesticides are manufactured or formulated. The standard would likely emphasize stringent work practices. The standards management committee will also accelerate promulgation of the major health as well as safety standards.

Question: How many lives do you expect the proposed labeling standard for chemical substances to save?

Answer: We have not examined the issuing of a labeling standard from the perspective of the potential number of lives it would save, although certainly lives of employees will be saved through their knowledge of the chemicals to which they are exposed and of the means to protect themselves from exposure. Such provisions are clearly consistent with the intent of the Act which states that standards should prescribe appropriate forms of warning so that employees are aware of all hazards to which they are exposed.

OSHA also believes that an effective occupational health program is one in which both employers and employees are participants, and for employees to meaningfully participate, they must know which chemicals are in the workplace, their potential hazards, and means by which protection can be obtained.

TECHNICAL SUPPORT

Question: Explain exactly how you expect to improve OSHA compliance activities with the $2.5 million increase budgeted for Technical Support. How much of this Technical Support work will be contracted out?

Answer: The $2.5 million increase budgeted for Technical Support will be used for additional technical services in support of OSHA compliance activities. In light of resource considerations and as an interim measure it appears necessary to utilize private sector resources for the more "routine" or production-oriented activities performed in the OSHA laboratories. The majority of the $2.5 million will be used by OSHA's Analytical Laboratory in Salt Lake City to handle the analysis of additional industrial hygiene samples that will be generated by the increase in health inspections expected during FY 1979. The number of inspections for health hazards is expected to increase from approximately 9,000 completed in FY 1977 to an estimated 15,000 in 1979. Also, additional health standards will require analytical testing for methodology and feasibility. These additional analytical requirements exceed the capacity of OSHA's laboratory facilities. The agency intends to provide this support through contracts with private sector analytical laboratories. In addition, the Cincinnati Maintenance and Calibration Laboratory will need additional support in order to handle the maintenance and calibration work necessary due to the increased number of technical instruments that will be in use by OSHA compliance officers.

The remaining monies for technical support will be utilized by OSHA's Technical Data Center to upgrade its technical data capability. Some of the projects which will be handled on a contractual basis include: the conversion of OSHA compliance case files to a computerized filing system for easy reference; the conversion of hard copy docket office material to microfilm; foreign language translation of scientific and technical documents; and the procurement of technical information and literature, as needed, in support of OSHA field compliance activities.

OSHA will conduct, for small business concerns, experimental and demonstration projects to develop engineering solutions to pervasive problems such as noise. Also to be developed is a quantitative fit test methodology for respirators as required by OSHA standards.

OSHA RESEARCH ACTIVITIES

Question: How much is in the fiscal year 1979 OSHA budget for research activities? Is OSHA seeking to build up its own scientific capability exclusive of the research assistance provided NIOSH? (The National Institute for Occupational Safety and Health in HEW)

Answer: Three million dollars in contract funds are requested to conduct policy studies supporting the design of a system for targeting inspections and resources on the most serious hazards in high risk industries. In particular, OSHA will focus on improving data relating to occupational health hazards and illnesses. Existing safety data will be analyzed to determine the impact of agency programs in reducing accidents.

These funds will also be used to study economic and other mechanisms to assist employers, particularly those with smaller businesses, to comply with the Act. OSHA will design and evaluate experimental, pilot labor-management programs to encourage employer/employee initiatives for providing safe and healthful working conditions.

In addition, OSHA will use these funds to conduct studies for improving its operational efficiency and effectiveness through monitoring and evaluation of its programs--particularly its training institute, on-site consultation contracts in States not providing this service to employers, and the performance of State programs in protecting workers' safety and health.

OSHA's policy research function differs from the medical and scientific research activities assigned to NIOSH under the Act. The Agency recognizes the need for competent economists, operations researchers and statisticians to support its standards-setting and enforcement, and to evaluate the effectiveness and impact of agency programs in reducing occupational injury and illness and fatalities.

Grain Elevator Explosions

Question: Have OSHA's investigations of the recent explosions shown that OSHA's standards were violated, and, would compliance with OSHA's standards have prevented these catastrophies?

Answers: At this time, OSHA has only completed one investigation--that of the explosion which occurred at the Farmers Export Company in Galveston, Texas. That inspection did indeed find serious violations of OSHA standards and citations alleging serious and willful violations of the regulations were issued. It cannot be stated flatly that compliance with OSHA's regulations would have prevented the explosion at this facility, however, it is reasonable to assume that had the Farmers Export Company been in compliance with OSHA's standards, the probability of an explosion or fire in the elevator would have been significantly reduced if not eliminated.

Question: Does OSHA Plan to establish specific standards for grain elevators? When?

Answer: The OSHA staff is presently reviewing its activity in regard to grain elevators. It is too early to determine what the agency's ultimate action will be. It may be that protection can be provided through existing regulations or some additional rulemaking could be undertaken. An other alternative may be the issuance of more comprehensive guide lines to both our compliance staff and the grain elevator industry, without establishing a separate set of regulations for the industry.

Question: There are about 10,000 grain elevators in the country. How many of these have been inspected by OSHA and how many by States operating under OSHA approved plans?

Answer: OSHA collects inspection information by SIC code and grain storage, milling, and handling is covered under SIC codes 2041-, 4221, and 5153. From July 1972 through November 1977, OSHA conducted 1858 initial inspections and 496 follow-up inspections for a total of 2354. This does not necessarily mean that 1858 different grain handling facilities were inspected as a particular facility may have visited more than once.

The information OSHA presently has indicates that from the start of 1977 through the present time, States with OSHA approved plans have conducted approximately 380 inspections in the industry.

Question: How many grain elevators will be inspected in the next year by OSHA and the States? How have OSHA's plans for increased inspection been communicated to OSHA and State offices?

Answer: OSHA has not set a specific goal for inspections in grain elevators in the next year. However, in a meeting held in Washington the week of January 16, 1978, OSHA Regional Administrators and Area directors were instructed to divert all available resources to grain elevators inspections, excluding those resources devoted to complaint and accident inspections. During that week, State designees were also told of OSHA's increased emphasis and were encouraged to step up their activity in this area. There are no plans at this time to transfer resources from region to region. We must also realize, however, that OSHA is charged with enforcement of regulations in a number of high hazard industries, and we have an obligation to carry on activity in those areas as well.

Question: Have past inspections disclosed serious hazards at grain elevators? Is action taken to assure that the hazards are corrected?

Answer: Previous inspections have indeed identified serious hazards in the grain elevator industry. In the 2354 inspections conducted in the period July 1972 - November 1977, 622 serious violations were cited and 12,401 other than serious violations were cited. During the past two years the number of serious violations per each inspection has increased, reflecting a change in OSHA's policy for classifying violations to more accurately reflect the nature of workplace problems. During the period July 72 - Nov. 77, OSHA found 327 serious violations during 309 inspections of employee compliants in grain elevators as compared to the period Oct. 76 - Nov. 77 during which the Agency discovered 230 serious violations in 118 complaint inspections. An employer is required to abate all hazardous situations for which he/she has been cited, and to report this fact in writing to OSHA. In addition, OSHA policy is to conduct a follow-up inspection in all cases where a serious citation is issued to ensure that the hazardous situation has been eliminated.

Question: The Federal Grain Inspection Service has apparently issued instructions to its grain inspectors regarding evacuating unsafe elevators. What arrangements have been made to assure that OSHA and the States are advised, and take action, when grain inspectors determine an elevator is unsafe?

Answer: OSHA policy for that last two years has been to review any complaint regardless of its source. This was reaffirmed in the grain elevator sector on December 30, 1977 when OSHA Regional Administrators were advised by memo that any complaints from Federal Grain Inspection Service inspectors would be considered valid complaints and that they should be handled accordingly. Also, on January 9, 1978, USDA sent a letter to its employees outlining procedures for ceasing work and notifing OSHA when a serious hazard was identified. These instructions were expanded and updated in a FGIS memo of January 25, 1978. This was also transmitted to OSHA Regional Administrators. In addition, the OSHA area offices have supplied a list of senior personnel with home phone numbers to the FGIS offices to be used in an after-hours emergency.

Question: On January 16, a newspaper reported that the head of OSHA's Houston office said that, until all the facts are in, OSHA could not rule out the possibility that pollution control requirements in the elevator may have caused safety problems. Has this issue been resolved.

Answer: At this time, there is no evidence that pollution control devices, when properly designed, installed, operated, and maintained, contribute to any safety and health problems in grain elevators. However, EPA has forwarded instructions to its field staff to closely inspect these units and OSHA staff has also been notified by memo to do the same.

Question: What legal authority does OSHA have to issue guidelines that would insure a safe environment in grain elevators? Exactly what has OSHA issued in the way of guidelines or regulations in this area?

Answer: Under the Occupational Safety and Health Act of 1970, OSHA has the authority to develop and enforce regulations concerning occpational safety and health. In inspecting grain elevators, OSHA uses its General Industry Standards found at 29 CFR 1910. In addition, OSHA can cite under the General Duty clause, Section 5(a)(1) of the Act, using accepted industry consensus standards such as standard 61B of the Nation Fire Protection Association as a basis. The only guideline OSHA has issued in this industry is the Grain Elevator Hazard Alert issued in early January. This was developed from the requirements found in part 1910 as well as information from other sources.

Question: We understand that grain elevator workers have the right, as do workers in other industries, to request an OSHA inspection when they believe a violation exists that threatens physical harm. Can you tell us how often such complaints have been filed in the past two years, and how many cases OSHA has actually investigated? Can you cite specific improvements resulting from OSHA investigations into these unsafe conditions. Please provide them for the record.

Answer: OSHA does not collect information on complaints by industry if they do not result in an inspection because in the preliminary stages information can be incomplete or incorrect. However, OSHA does track the number of complaint inspections by industry and information is available for the period July, 1972-November 1977 and the more recent fourteen month period, October 1976 to November 1977. The following table lists the number of complaint inspections and the number of violations found during them.

Period	Number Inspections	Number Serious Violation	Number Other Violations
July 72-Nov. 77	309	327	1,921
Oct. 76-Nov. 77	118	230	424

Employers are required to abate violations for which they are cited. From the above figures, it would appear that inspections generated by employee complaints have indeed resulted in the identification and elimination of hazards in the grain elevator industry.

Question: Is it true that by law, OSHA must follow up all complaints filed by employees? What evidence do you have that disgrunted employees frequently file somewhat frivolous complaints which OSHA must then invesitgate--at the expense of spending time on the more significant safety-related complaints?

Answer: The agency is required under the Act to review and respond to all complaints from an employee, an employee's family, or an employee's representative. This does not mean that every complaint results in an inspection. OSHA field supervisors are expected to use their professional judgement to screen complaints to determine if a hazard to employees exists before a compliance officer is committed to an inspection. While an employee could abuse the complaint system to harass an employer, this happens very infrequently, and these complaints usually are screened out early. We in OSHA fully understood that an employer has rights that we must safeguard as well as those of an employee.

Question: How many complaints were registered in the past two years in grain elevators? How many did OSHA investigate? What proportion were found to be frivolous or without foundation? Please provide a record.

Answer: As stated previously, OSHA does not have data on complaints by industry if an inspection is not conducted. However, for the period July 1972 - November 1977, of the 309 complaint inspections conducted, 78 were found to be in compliance. Of the 118 complaint inspections conducted from October,1976-November, 1977, 33 were found to be in compliance. These figures do not mean that the complaints where no violations were found were frivolous. In the majority of these situations, employees had a legitimate concern for their safety and health and it was OSHA's responsibility to investigate.

Question: Do you consider this issue of frivolous compliants to be serious? If so, what do you recommend? Would changes in the OSH law that would permit OSHA to administratively dismiss complaints that were patently frivolous be of assistance in better utilizing OSHA's limited resources of personnel?

Answer: OSHA does not consider the issue of frivolous complaints to be a serious one. It has been our experience that the benefits of the complaint system far outweigh the infrequent attempts to harass an employer through it. Most complaints one filed by employees who have legitimate concerns and who are aware of potentially serious problems in their workplace. Our statistics on grain storage and handling inspections for the period July, 1972 - November, 1977 demonstrate how complaints lead us to serious hazards. In the 309 complaint inspections a total of 327 serious violations were found and cited. In the 1,360 initial general schedule inspections conducted, only 164 serious violations were found. For this reason, I do not feel we should change the law regarding employee complaints. We can deal with any problems, such as employee harassment, administratively. Program Directive #200-69, issued in December 1977, outlines specific procedures to be followed, while allowing Area Directors the latitude to use their judgement in responding to complaints.

Question: Approximately how many people in OSHA were involved in inspections of grain elevators within each of the past two years? How many manyears of inspection took place? What proportion of the inspections were unannounced spot checks of work areas, and what proportions were merely follow-ups on complaints registered?

Answer: In fiscal year 1976, OSHA records show that 7.12 manyears were devoted to inspections in grain storage and handling facilities. This figure for fiscal year 1977 is 4.22 manyears. (Note: this should increase in FY 1978 given the new emphasis OSHA has put on our inspection effort in this area.) The following table shows the percentage of inspections by type in the grain storage and handling industry for the periods July 1972 - November 1977 and October, 1976 - November, 1977.

Type Inspection	July 72-Nov.77 #insps.	% of total	Oct. 76-Nov.77 #insps.	% of total
Accident	189	8	34	9
Complaint	309	13	118	31
General Schedule	1,360	58	104	27
Follow-Up	496	21	126	33
Total	2,354	100	382	100

Question: We understand that OSHA issued a Grain Elevator Hazard Alert in December that was prepared almost immediately after the explosions. Isn't that a little late in view of the fact that OSHA could have issued such an alert earlier?

Answer: Looking back, it would have been better had OSHA issued an alert earlier. However, while people involved in Occupational safety and health have known about hazards in grain elevators for a long time, we have also been aware of numerous situations in workplaces all across this country wich are just as hazardous and we have been trying to address these as our resources permit. It should be noted, however, that if an employer operating a grain elevator is in compliance with OSHA's General Industry Standards which have been on the books since the beginning of the program, the hazards to his employees would be significantly reduced. Also nothing in the alert is new information. It was developed using existing OSHA standards plus industry consensus standard which have been known to employers for a number of years.

Question: How many elevators was the Alert sent to? What would be your estimate of the proportion of these elevators that have been inspected during each of the past two years by OSHA--both in investigations of complaints and in unannounced, routine OSHA site investigations.

Answer: OSHA has mailed grain elevator hazard alerts to every known elevator from lists supplied by the Federal Grain Inspection Service and the industry. In all, approximatley 12,000 alerts have been distributed to elevator operators, industry associations, labor unions,

and other interested parties. For the period October, 1976 - November, 1977, 34 accident inspections were conducted, 118 complaint inspections, 104 general schedule, and 126 follow-ups, for a total of 382.

Question: In your recent testimony before the House Education and Labor Committee, you pointed to your limited staff (1500 compliance officers who must protect 60 million American workers) and said OSHA couldn't possibly inspect every one of the 10,000 grain elevators in the country. You said "In order for grain elevator employers to protect the lives of their employees, it is essential that they do the following things:

--preventive maintenance with written procedures for regular inspections
--maintain adequate housekeeping to keep dust levels down
--conduct safety and health training for workers
--use local fire and rescue agencies to help identify and eliminate hazards"

Even though those are excellent ideas, who will monitor and enforce them? The industry has shown a notable reluctance to do these things.

Answer: The recent tragedies have made many people connected with the industry more aware of the threats to workers in grain elevators. While it is the responsibility of elevator operators to afford their employees a safe and healthful workplace, OSHA and the states operating under OSHA approval plans, have redoubled their efforts to monitor this activity. In addition, the EPA, Federal Grain Inspection Service, and state and local municipalities are all aware of the problem and are working to identify and eliminate hazards, either through working with OSHA or independent action.

OSHA is committed to doing quality inspections of grain elevators. As our activity in this area is publicized, we hope to encourage employers to increase their efforts to voluntarily comply with the standards. We do have a resource problem and will not be able to inspect every elevator and still meet our other commitments. The industry knows we are taking a very critical look at its operations and I expect increased activity on the part of associations and individual employers to do something before OSHA inspects.

Question: It has been reported in the press that pollution control requirements mandated by law and enforced by EPA regulation are somehow connected with these grain elevator explosions. The charge is made by industry that grain dust that formerly could be vented into the open air now must be kept inside the elevators. Do you agree that EPA regulations do in fact contribute to these explosions.

Answer: I do not believe that a properly designed, installed, operated, and maintained pollution control system contributes to the hazardous situation in grain elevators.

Question: Last week, David Hawkins, Assistant Administrator of EPA for Air and Waste Management, testified before the House Education and Labor Committee that good air pollution control practices do not increase risks of fire or explosion, but to the contrary, properly operated air pollution control equipment reduces these risks. Do you agree with his assessment?

Answer: Yes

Question: Do you further agree with Mr. Hawkins that air pollution control rules do NOT require the accumulation of dust inside elevators, but that the proper method of complying with pollution control requirements would involve capturing and removing the dust from the elevator and collecting it in separate control equipment?

Answer: Mr. Hawkins is more qualified than I to speak to the letter and intent of EPA regulations. I would say that a pollution control device which results in the removal of dust from an elevator would contribute to a safer work environment in that elevator.

Question: What techniques does the National Fire Protection Association recommend in order to reduce fire and explosion hazards in grain elevators?

Answer: The National Fire Protection Association standard 61 B addresses fire and explosive hazards in grain elevators. It deals with keeping the levels of combustible or explosive materials down and the elimination of ignition sources from the elevators.

Question: Do you agree with Mr. Hawkins that the principal problem is not the EPA rules, but the way the industry is complying --recapturing dust--and not maintaining its equipment properly?

Answer: I know that if the levels of combustible or explosive material are kept down and if ignition sources are kept out of the elevators, you have gone a long way in eliminating the problem.

Question: We understand that at the present, there is little incentive for the elevator operators to try to get rid of the explosive grain dust. Instead, they trap it and tamp it back into their grain in order to increase the weight. Would you agree with that? Do you have any idea how widespread this practice of trapping dust and tamping it back into grain shipments actually is?

Answer: It is my understanding that dust is reintroduced into the bulk grain in some cases as it is bought and by sold by weight. This would be a disincentive for operators to totally remove it. I have heard of that a very limited number of grain operators process the dust into pelletized animal feed. In this way, the dust is removed from the grain and is not an economic loss.

Question: Professor Richard E. Ginnold of the University of Wisconsin Extension, who has studied grain elevator safety for the past four years, has testified that a large body of explosion prevention measures has been developed over the years by the Bureau of Mines and Agriculture Department, principally growing out of mine explosions in the early 1900's. Didn't the research just mentioned result in development of explosion prevention codes by industry committees of the National Fire Protection Association in 1925--that have been up-dated several times?

Answer: It is true that information on explosion prevention measures has been available from both government and private sector sources for quite a number of years. An example is standard 61 B of the National Fire Protection Association which OSHA can cite under the General Duty Clause, section 5(a)(1) of the the OSH Act.

Question: Professor Ginnold charged last week that (although these standards were developed in 1925) "50 years later, many of these minimum requirements on dust control, housekeeping, electrical equipment and control of welding and ignition sources are still voluntary guidelines or enforced only weakly by OSHA state agencies." Is this true, Ms. Bingham?

Answer: OSHA is responsible for worker safety and health in over 5 million workplaces in the country and we are not able to concentrate as many resources in one industry as we would like. Grain elevators have been considered a high hazard industry as have many others. We have, however, focused more resources in the grain elevator industry and we will be doing comprehensive inspections. We are also developing a training course to increase the technical expertise of our compliance staff in the operations of this industry.

Question: Professor Ginnold said although a dust collection system is a basic part of explosion prevention and compliance with both EPA and OSHA requirements, "the problem is that neither the state air pollution agencies, nor OSHA look carefully enough at the duct velocities and capacities and the fan power in the exhaust system to see if they are adequate to handle the dust load at peak operation...Also, proper maintenance techniques are often ignored, and even more disturbing, only about 30% of all elevators even have a dust collection system." What would you say to these serious allegations?

Answer : Exhaust systems are an important area for OSHA to look at in grain elevators. Up until recently, we had a severe shortage of industrial hygienists in the agency and we were not able to bring the technical expertise to bear on this problem. We now have over 500 journeyman or trainee industrial hygienists in the field and will be better able to address this problem. In addition, the OSHA field staff was advised by memo in January 1978 to carefully inspect all exhaust systems when inspecting grain elevators.

It is true that many of the grain elevators in the country were designed and built before the great increase in domestic production and export of grain, and the exhaust systems, if installed at all, were not designed to handle the twenty four hour, seven days a week operations they are now performing.

Question: Professor Ginnold cited the "housekeeping" problem--in addition to mechanical ventilation,there is a continual problem of grain dust collecting on walls and ledges and spills from conveyor belts. Few elevators are willing to devote manpower to proper housekeeping. Dust keeps piling up, creating unsafe conditions. Ginnold said "Ironically, OSHA cites housekeepng hazards as 'de minimis' violations--implying no relation to; health or safety with no fine or required correction." Is this really true? Why don't you change your rules and guidelines in this area?

Answer: Housekeeping is indeed a problem in grain elevators, especially when an elevator is operating at peak capacity as many of them are. However, I do not consider the problem of accumulated grain dust to be a 'de minimus' situation, rather it is a very serious threat to worker safety and should be treated as such. In all of 1976 and 1977, only a total of 13 violations were classified as 'de minimis' in the grain elevator industry.

Question: Ginnold said that for safety reasons, dust should be prohibited from being returned to the grain and should be stored separately in a safe place. Does OSHA have the legal authority to prohibit, by administrative action, the return of grain dust to the grain?

Answer: No, OSHA has the authority to require that a worker is not exposed to hazardous situation. The return of dust to the elevator, does not, in and of itself, create a hazard.

Question: Ms. Bingham, is it true that grain workers have the right to stop work if their employer allows abnormally dangerous or imminent danger conditions to exist?

Answer: Under the OSH Act they do have the right to report a hazardous situation to an OSHA office which, in turn, if it is determined that an imminent danger situation exists, has the authority to seek a temporary restraining order to require the employer to remove the employees from risk.

Question: Do you agree with Professor Ginnold's statement as follows: "We need to stop listening to employer cries of overregulation and treat the grain industry as the hazardous industry it is. This means much more frequent OSHA inspections by trained inspectors and strict enforcement of the recognized explosion preventions which much of the industry has failed to apply. Violations which could cause explosions should be cited as willful and serious with heavy fines."

Answer: I do agree with Professor Ginnold that we must do a better job. I believe our increased emphasis over the last few months demonstrates our commitment to do that and the recent citation issued to Farmer's Export Company alleging serious and willful violations and proposing a penalty of $116,000 clearly shows that we are very serious in our efforts to prevent death and injury in the future.

Question: Do you agree with Mr. Leland Bartelt, Administrator of the Federal Grain Inspection Service, that the National Fire Protection Association Standard 61B "Prevention of fire and dust explosions in grain elevators and bulk grain handling facilities" should be adopted as part of 29 CFR 1910 OSHA standards. Why have you not done this?

Answer: It is really not necessary to incorporate NFPA standard 61B into 29 CFR 1910. Section 5(a)(1) of the Act, also called the General Duty Clause, requires an employer to provide a safe and healthful workplace and to protect employees for recognized hazards. Standard 61B has been available to the industry for years, and OSHA can cite under Section 5(a)(1) using NFPA 61B as a reference.

Question: It is really true that OSHA has been working on guidelines to reduce hazards at elevators for the past two years? Can you tell us what has taken so long to issue the guidelines?

Answer: OSHA had been working on guidelines for grain elevators for the past two years, but they were not being developed to deal with the potential threats from fires and explosions. The main point of this earlier effort was to deal with potential health hazards from chemical pesticides in the grain.

SUBCOMMITTEE RECESS

Senator EAGLETON. OK. The subcommittee then will be in recess until tomorrow at 10:30.

[Whereupon, at 6:05 p.m., Wednesday, February 1, the subcommittee was recessed, to reconvene at 10:30 a.m., Thursday, February 2.]

DEPARTMENTS OF LABOR AND HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1979

THURSDAY, FEBRUARY 2, 1978

U. S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 10:05 a.m., in room S-128, the Capitol, Hon. Warren G. Magnuson (chairman) presiding.

Present: Senators Magnuson, Brooke, Chiles, Eagleton, Hollings, Mathias, and Young.

DEPARTMENT OF LABOR

SECRETARY OF LABOR

STATEMENT OF RAY MARSHALL, SECRETARY OF LABOR

ACCOMPANIED BY:

ALFRED M. ZUCK, ASSISTANT SECRETARY FOR ADMINISTRATION AND MANAGEMENT
JOE CORBETT, OFFICE OF PLANNING EVALUATION AND RESEARCH
NIK B. EDES, DEPUTY UNDER SECRETARY FOR LEGISLATION AND INTERGOVERNMENTAL RELATIONS
WILLIAM R. REISE, COMPTROLLER FOR THE DEPARTMENT
CHARLES E. PUGH, DIRECTOR, OFFICE OF BUDGET

OPENING REMARKS OF CHAIRMAN MAGNUSON

Chairman MAGNUSON. The subcommittee will come to order.

This morning we will hear the testimony from Secretary of Labor Ray Marshall in support of his Department's $15.3 billion fiscal year 1979 appropriations request.

For the record, last year's appropriation was only $7.9 billion, but it didn't include nearly $6 billion for public service jobs, which Congress forward funded in a fiscal 1977 supplemental.

Senator Eagleton and Senator Brooke have already had some detailed hearings on this and I am sure they will want to ask some further questions.

Mr. Secretary, I think you have some opening remarks. You can introduce your associates and we will be glad to hear from you.

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Secretary MARSHALL. Thank you, Mr. Chairman. Let me introduce my colleagues here. I believe Bob Brown is not here. Al Zuck, Assistant Secretary for Administration and Management.

Joe Corbett from the Office of Planning Evaluation and Research.

Nik Edes, Deputy Under Secretary for Legislation and Intergovernmental Relations.

Bill Reise, Comptroller, and Charles Pugh, Director of the Office of Budget.

Chairman MAGNUSON. We are glad to have you all here.

Go right ahead with your statement

SECRETARY'S OPENING STATEMENT

Secretary MARSHALL. Mr. Chairman and members of the committee, I welcome this opportunity to present to you an overview of the Department of Labor's appropriation request for fiscal year 1979.

Since the committee has already completed most of the hearings on the Department's individual appropriation requests, I will limit my remarks to the major aspects of the Department's request.

In these remarks I would like to focus upon what our proposed 1978 supplementals and our 1979 appropriation request mean in terms of providing jobs and training for individuals who are unemployed or who lack the skills necessary to enable them to find regular jobs, and mean in terms of insuring that our Nation's workers receive the protections which are afforded to them by law.

The President, in his recent economic report, emphasized the fact that, "overall fiscal and monetary policy alone will not provide employment to many in our Nation."

He stated that, in order to reach high levels of employment, while maintaining reasonable price stability, we must adopt measures such as the Humphrey-Hawkins bill which could increase employment opportunities for the disadvantaged and employment and training programs which are targeted on the long-term unemployed and the poor.

Our budget request underscores the high priority the President places on achieving full employment. The budget projection of a 4-percent unemployment rate by the final quarter of 1983 reflects President Carter's support for the Humphrey-Hawkins bill. The budget proposal also reflects that employment and training programs have become a permanent—and important—part of the administration's economic strategy for fighting unemployment.

Our request recognizes the need for targeted, selective employment and training programs directed to the problems of specific groups of individuals. Targeted programs have an important role in supplementing overall economic policy. We have worked very hard during the past year to establish this principle.

1978 PROPOSED SUPPLEMENTALS

Our budget request includes a number of proposed 1978 supplemental appropriations. Many of these supplementals relate to immediate problems facing the Department which have a direct impact on workers.

For example, we must begin enforcement of the new Mine Safety and Health Amendments Act on March 9, 1978. Backlogs of petitions for trade adjustment assistance are continuing to build up at an alarming rate, as are complaints alleging violations of the minimum wage law.

Therefore, we urge early congressional action on our supplemental appropriations requests.

The 1979 appropriation request for the Department of Labor totals $15 billion——

Chairman MAGNUSON. Now, Mr. Secretary, I don't want to interrupt, but when you talk about supplementals what supplementals are you talking about, the one to come or the one we now have in conference?

The one in conference already?

Mr. ZUCK. These are additional supplementals, Mr. Chairman, submitted as a part of this budget request over and above those in conference.

However, we have——

Chairman MAGNUSON. Wait a minute now. You have got your regular budget for x number of dollars as we pointed out. Now, do you expect to come up and ask for some more in a supplemental?

Mr. ZUCK. Yes, sir.

Chairman MAGNUSON. All right.

What is the timetable on that?

Mr. ZUCK. Those supplementals have been submitted along with our regular 1979 appropriations request.

Chairman MAGNUSON. Well, but is it included in the total?

Mr. ZUCK. Yes, sir.

Chairman MAGNUSON. I see. Because we were—if you have a total of x billion dollars, you are going to immediately come back and ask for some more, that is what we were concerned——

Mr. ZUCK. Those supplementals are reflected——

Chairman MAGNUSON. In the regular, within?

Mr. ZUCK. Yes, sir.

Chairman MAGNUSON. I didn't want to interrupt but we did want to clear that up. OK.

1979 APPROPRIATION REQUEST

Secretary MARSHALL. The 1979 appropriation request for the Department of Labor totals $15 billion in new budget authority, including $238 million for the Labor Department portion of the work incentives program, for which the appropriation is made to the Department of Health, Education, and Welfare.

Outlays, which are the real measure of program levels, will total $15.5 billion, including $950 million for Federal unemployment benefits and allowances.

By immediate comparison, our 1979 request for Department of Labor operating programs represents an increase of $7.6 billion in budget authority and $2 billion in outlays over 1978.

A more meaningful comparison, however, is with the appropriation for Department of Labor programs in 1976.

Compared to 1976, our request for Labor Department operating programs calls for an increase of $7.2 billion in outlays, represent-

ing, in simple terms, a doubling of actual program operating levels since 1976.

A most dramatic increase, for example, from 1976 to 1979 has been in the size of employment and training programs.

In 1976, $5 billion was spent on CETA programs, including public service employment and youth programs.

In 1979, outlays for these programs will total $11.4 billion, an increase of 130 percent. More importantly, the number of participants in these programs will have doubled to over 1.5 million.

In addition, the summer youth employment program has expanded from 888,000 to 1 million participants and the older Americans program will have more than tripled from 15,000 to 47,500 part-time community service jobs. The tables I have attached to this statement show how the various Labor Department programs have changed since 1976.

SPECIFIC PROGRAMS

I would like to turn now to specific programs.

Chairman MAGNUSON. Now, Mr. Secretary, as you get into these programs, would you like to read your statement uninterrupted, or would you like the members to ask you as we move along?

Secretary MARSHALL. Either way.

It might be better to let me go through it and then perhaps I can answer questions that might come up. But whatever you like to do would be all right with me.

The CHAIRMAN. Well, if some member feels it is necessary, why he can do so.

ACHIEVING FULL EMPLOYMENT

Secretary MARSHALL. All right. I would like to turn now to specific programs.

As I indicated, achieving full employment is a key concern of the Department and the administration.

In addition to targeting our employment and training programs more directly to those most in need, we are proposing a major new initiative to build linkages between the public sector and the private sector, with respect to the private sector's role in the planning and development of employment and training programs.

This new private sector initiative, for which we are requesting an additional $400 million—$250 million in outlays—will attempt to involve the private sector more effectively in the creation of training opportunities and jobs.

Chairman MAGNUSON. Now, you want to be prepared, I think, when you talk about that, what comes to mind is the big amount of money we had in so-called vocational programs, both with young people and adult vocation, which we thought over the years was a good thing.

We want to know where they might overlap, where there is duplication if there is duplication, because it brings immediately to mind that there must be some duplication going on.

Senator MATHIAS. Mr. Chairman.

Chairman MAGNUSON. Go right ahead. He is willing to answer questions.

Senator MATHIAS. Since you have raised the question, would the Youth Demonstration Employment Act be one of the programs under this, Mr. Secretary?

Secretary MARSHALL. Yes.

Senator MATHIAS. I don't want to break the train of your thought, but since we are on that subject, since the Chairman has raised some question about it, I would just like to say a word about that program because I think the Department of Labor deserves a great deal of credit, Mr. Chairman, for this innovative program.

Now, in the city of Baltimore, Md., we have a youth unemployment rate which may be as high as 47 percent. I think we can demonstrate that it is over 40 percent. And nothing that was being done up to this time has really made a dent in that. This is a pilot program. It is admittedly an experiment but it is going to provide about 6,000 young people in the city of Baltimore with employment, more important than employment it is going to give them job training and it is going to involve a commitment on their part to stay in school.

Now, there is nothing else that I think has been attempted which does exactly this thing. Give them a job, you give them job training, and you get their commitment to stay in school.

And I would hope that not only that this committee would approve whatever you ask for in the way of additional funding for these jobs, but that you will ask for enough that it can be done not only in Baltimore, but in other cities as well.

Chairman MAGNUSON. Don't worry, they will ask for enough.

Secretary MARSHALL. Thank you, Senator. We believe that the program is a good one. It is now a demonstration project.

The programs we have in Baltimore and in other cities now are mainly demonstrations to see if the concept will work. We believe it will. But there is some doubt about whether we can use the employment and training program as a way to reduce the dropout rate and keep youngsters in school.

We think it is very important to try, on a significant enough scale to start with to give us an idea of how well it works and if it does work it can be expanded into a nationwide program.

Senator BROOKE. Well, Mr. Chairman, if I may, Mr. Secretary, this wasn't a planned attack I assure you. I want to commend the program itself.

But on the other hand I think you approved $8 million for the city of Boston for this youth employment experimental program, and we have asked for $11.5 million. And hopefully we can get that because if we don't we will have to cut out certain neighborhoods, and we have some very unique problems in the city of Boston as I am sure you are well aware, Mr. Secretary.

You have been very cooperative in this matter.

Is there any way in which we can negotiate somewhere between that $8 million which you approved and the $11.5 million the city of Boston has asked for because we just don't want to cut out any of the neighborhoods because of the very serious problems we have in the city with unemployed youth?

Secretary MARSHALL. Yes, we understand that.

My understanding is that the real problem we had, of course, was the amount of money that we had to allocate to that program.

I thought it was better then to try to use the money within as many places as we could within a program design we thought was appropriate rather than to try to cut it back entirely.

As I remember it Boston and Detroit were about tied so we thought we would try to do both of them rather than to make a decision about one of those programs alone. We also wanted to see if we couldn't find money from any other source to really make it a good program. But the answer to your question is "Yes." We think we can negotiate that.

Senator BROOKE. I am glad to hear that, because we don't want to cut back in certain neighborhoods, and we don't want to shorten the period. But I know you have budgetary constraints yourself, Mr. Secretary.

But I am glad to hear you say we can negotiate and, hopefully, we can work out something between the Department of Labor and the city so we can arrive at something that won't necessitate a cutback in those neighborhoods.

Senator MATHIAS. Maybe the Senator from Massachusetts and others on the committee can also do a little negotiating to make sure there is enough money to go around.

Senator BROOKE. The Secretary knows our——

DUPLICATION OF VOCATIONAL PROGRAMS

Chairman MAGNUSON. The point that I was raising, if you get them back in school, then there are all kinds of vocational programs that are available. And also within HEW itself, there is similar, I think, to what this objective is, some of these so-called on-the-job training programs.

I want to know where they overlap or duplicate one another so, of course, the committee has never really liked this idea of appropriating money to one department to give to another.

We thought that was ended last year but, apparently, it hasn't; is that correct?

Secretary MARSHALL. There is still some of that, yes, sir.

Chairman MAGNUSON. Yes.

Secretary MARSHALL. I think it is rare.

Chairman MAGNUSON. It gets longer on the way sometimes.

Secretary MARSHALL. Well, I am not sure what happens to it before it gets there——

Chairman MAGNUSON. That's the problem, neither are we.

Secretary MARSHALL. But the question you raise is one we think is very serious. We are concerned about the linkages between school and work, just as we are the linkages between the public and private sectors.

PROPOSED SOLUTIONS

Now, one device that is being developed to try to deal with that problem in the local area, to see if you really have overlapping and duplication, is a local industrial training council that will include the principal activity in that location.

One principal actor, of course, is the schools. They need to be involved in that process. We have about 21 places for an experimental program to test the idea of setting up a committee to facilitate the movement from school to work.

What we are proposing is to also set up local training councils to improve the relationship between private sector jobs and our public sector job and training programs. The reason for that is that one of the things that happened with CETA is that private sector involvement in our programs has fallen. The reason for it—there are a lot of reasons for it—but one important reason——

Chairman MAGNUSON. I will tell you one of the reasons it declined. Too much redtape. They got tired of it. That's why it declined. Some of them just gave it up. They think it is a good idea, but can't be bothered with it. They are on top of me all the time, all the way from paperwork to interviews.

In the meantime, the kid's sitting there unemployed.

Senator BROOKE. This is your $400 million initiative, is it not, Mr. Secretary?

I think we have to move toward the private sector. I believe, obviously, that where we have consistently high unemployment, we have got to have private, as well as public sector jobs.

But I think the move in the direction of the private sector jobs is so important.

Secretary MARSHALL. We think it is important to all of our programs right now. We won't be able to have welfare reform, for example, if——

Chairman MAGNUSON. In any event, you are trying a new approach. We are hopeful it works.

REDUCING PAPERWORK

Secretary MARSHALL. Yes, and we are reducing the paperwork involved to a bare minimum in our own programs. We get the same complaints in units of Government that we have too much redtape, too much paperwork for them. We have made a conscious effort to try to simplify that, partly because we believe the programs will be better if we simplify them; we will know more about what we are doing; and it will get the private sector to participate more, as they have been already, just last year, with the National Alliance of Businessmen.

Chairman MAGNUSON. I think they are willing, but they are frustrated and get discouraged.

Senator BROOKE. I just want to add to what the chairman said. I just hope that in moving on this, we all agree it is good and sound, but that you will recognize the chairman's warning as to the paperwork and the bureaucratic problems that particularly the small business is concerned with, and that you do everything you possibly can to avoid it.

HUMPHREY-HAWKINS BILL

We have just opened hearings, you will be pleased to know, on the Humphrey-Hawkins bill. So I again want to commend the administration for supporting Humphrey-Hawkins.

I think Humphrey-Hawkins is flexible enough to involve the private as well as the public sector. I think we have to sell this to the American public.

Everybody says "Humphrey-Hawkins, oh my God, that is Federal Government takeover, Federal Government bureaucracy, Federal Government jobs, jobs, jobs."

I think it allows the President enough leeway to adopt a private sector approach if he deems that the best course to reduce unemployment.

Secretary MARSHALL. We have never thought that public sector could do more than provide temporary employment for people, until they get into the regular economy.

Senator BROOKE. If you don't make it palatable, as the Chairman says, to the private sector through lack of redtape and paperwork, then it is just not going to work.

PRIVATE SECTOR INVOLVEMENT

Secretary MARSHALL. That is one of the reasons, Mr. Chairman, we involved the private sector in our planning.

We have a group of labor-management people who tell us the problems. What they tell us is redtape. We ask them only for what we need as a minimum.

Chairman MAGNUSON. This is off the record.

[Discussion off the record.]

Senator BROOKE. How do you think this will work? We have had private sector initiaties before with all due respect, Mr. Secretary.

Why do you think this one has a better chance?

Secretary MARSHALL. Well, I hope we have learned something from history why they didn't work before and why they weren't successful as they might have been.

One problem, of course, we had is: unemployment rose very rapidly, and that made it difficult for the private sector to hire people we are trying to target on, the disadvantaged, because you had experienced workers unemployed. And that was a problem.

The other one was that we frequently made assumptions about the private sector on the basis of not really participating with them in the process and saying, what does it take to get you involved in the process.

We worked at the national level, but we didn't work with the jobs at the local level. The national concept of jobs is not very meaningful. Jobs are at the local level. If you are going to get jobs, it is going to be in some community in a local labor market.

What we are trying to do now is provide a mechanism at that level. And that is one of the things that happened to CETA. As you decentralized, you had to go to a local prime sponsor to get support for a program that you wanted to run.

Some groups are willing to go to those prime sponsors and make applications; most local businessmen aren't willing to do that. They aren't going to go out of their way. They will do it if you ask them, but they aren't going to go down and make application for an uncertain amount of funds.

LOCAL INDUSTRIAL TRAINING COUNCILS

What these local industrial training councils will do is to provide an intermediary between public service and the private sector. The basic idea is the same idea we have in a lot of our other programs, and that is, in order to target on people, you have to understand them.

You have to know what they are thinking about, what their values are. We do that with veterans, with minorities. We are doing it with Spanish-speaking, and we have to do it with the business people.

The idea is, an organization that is controlled by the private sector will be able to reach the private sector better than a Government-controlled organization. That is what they tell us, and we have some models.

There are some very good local industrial training councils in operation that we study. One we have paid a lot of attention to is in Chicago, for example, and tried to see what is there about this that's made it work.

The idea of participation was a very important one, not just the business community, business and labor. We have said—we will consider these to be their mechanisms, that is, localization of the process and simplification. It was done very simply.

THE HIRE PROGRAM

Sometimes, the programs get misinterpreted when you try to do that. We did that with our veterans' program, the HIRE program. The program failed, and the reason it is supposed to have failed in the eyes of some people is that we didn't spend all the money with the particular program we started out with.

And the reason we didn't spend it all is because they didn't charge us. I don't consider that a failure. If they will agree to hire the veterans and train them, but say we don't want to make a contract with you because it is too complicated, we don't consider that a failure.

We think we can use those resources to deal with other programs where you do have to compensate people for their actual expenditures. The veterans' unemployment rate has dropped markedly during the last year.

If you just look at the HIRE program from the standpoint of the amount of money it spent, for that particular program, you will say, "Well, they have got people working, but haven't spent a lot of money." In the eyes of some, that is a failure. I don't think it is a failure. I think it is a strange concept that argues we will measure input by the output.

One thing that happened in CETA is on-the-job training went down. We considered that to be good training, and that is part of what we want to get back into with this.

So, I don't know whether it will be successful, Senator Brooke. I think that what we see about it and the way we are going about it gives us some hope that it will be. We view it as a demonstration project to start with, a demonstration project that, nevertheless, has a high probability of success. But, unless we have proved it, we will have trouble convincing everybody it will work.

Senator MATHIAS. I am sorry to have started such a long interruption in your statement.

Secretary MARSHALL. We are requesting——

RETRAINING PROGRAM

Chairman MAGNUSON. Well, now, one thing has bothered me for some time, and this is sort of part of the overall program. You have a retraining program.

Secretary MARSHALL. Yes.

Chairman MAGNUSON. We have found it seems to be a lot of people get in, good enough people; but when you put them through the horn, land come out on the end, how many jobs do they get? The last figure we had, I will put it in the record, it cost us about $22,000 for each job we created in that program. People will address themselves to that——

Secretary MARSHALL. This past year we——

Chairman MAGNUSON. Someone says you can send them all to Harvard for that.

Secretary MARSHALL. Well, Harvard won't give them much rehabilitation.

Chairman MAGNUSON. The cost, when we got through with it, the bottom line was—How many of those people got some kind of a job? And the cost was about $22,000 per person.

Secretary MARSHALL. Well, our estimates show——

Chairman MAGNUSON. Wasn't it over $20,000?

Secretary MARSHALL. Well, of course, that's not the cost in our public service employment. There might be some particular program——

Chairman MAGNUSON. That is, you are retraining?

Mr. ZUCK. Job Corps.

Secretary MARSHALL. Job Corps cost analysis was about $10,000, nowhere near $22,000.

Chairman MAGNUSON. Well, anyway when they come up here, have the unit costs, because there was a lot of criticism of that.

Secretary MARSHALL. What we do know, one of the cheapest ways you can deal with the problems of unemployment is through public service employment and training.

Chairman MAGNUSON. Yes, public service, or other job training.

Secretary MARSHALL. It is a lot cheaper. We estimate that if we try to do it through general economic policies alone, the cost would be $25,000 for every job, and that's the reason that these target programs——

Chairman MAGNUSON. All right, go ahead.

DEMONSTRATION PROJECTS RELATING TO JOBS

Secretary MARSHALL. We are requesting $200 million, $125 million in outlays, to set up demonstration projects relating to the jobs component of the President's welfare reform proposal.

Under these projects, we want to demonstrate—in a limited number of sites and under various circumstances—the various methods of providing intensive job search assistance and related services to enable low-income family heads with children to find private sector jobs.

If no such jobs can be found, they will be provided subsidized jobs through the existing system of CETA prime sponsors.

Chairman MAGNUSON. What do you do there, do you suggest they create a job that never existed? That they didn't want to begin with?

Secretary MARSHALL. They wanted it. It wasn't there.

Chairman MAGNUSON. Didn't have the money?

Secretary MARSHALL. There are a lot of things that need to be done and that we all consider to be useful things, I think, that will not be done by either the public sector or the private sector. It is not the kind of thing we are talking about, and it is already underway now.

SERVICES TO THE ELDERLY

One very important area that we think can be used for this purpose is services to the elderly.

We figure that nationwide——

Chairman MAGNUSON. That is a kind of a special program. I am talking about regular jobs.

Secretary MARSHALL. It wouldn't be a regular job.

Chairman MAGNUSON. The criticism is that you were trying to push the creation of a job that is not needed.

Secretary MARSHALL. I think the jobs are needed.

Chairman MAGNUSON. Well, a lot of people don't think so.

Some taxpayers don't think so.

Secretary MARSHALL. I think that you could use these programs to reduce costs.

I think that is what we ought to do. For example, health care to elderly people, to avoid institutionalization.

If we have to put people who are disadvantaged into the hospital, it costs you a great deal.

Chairman MAGNUSON. We have that program in the welfare department.

Secretary MARSHALL. You can use people who have limited levels of educational skills for home care services for the elderly.

Chairman MAGNUSON. We tried that in the HEW appropriation.

Secretary MARSHALL. Well, we can work with them.

Chairman MAGNUSON. Home care, what we call outpatient care, is becoming a thing that needs to be done.

Secretary MARSHALL. That's right.

Chairman MAGNUSON. Outpatient care is cheaper. It relieves the pressure on clinics, hospitals, and all those things. But I just don't know how the Labor fits into that.

Secretary MARSHALL. The money goes to the local unit of Government, as with one of these programs that I visited just recently in North Carolina.

There, the local unit of Government gets money from Welfare, the Labor Department, and a lot of other sources.

One of the concerns they had was, if you don't try to get people off welfare and into jobs, what kind of work can they do? What kind of jobs should they do? They got the money from us to take people who had been on welfare, to go into the homes of elderly people and take care of them. They weren't caseworkers. They weren't college-trained people.

Chairman MAGNUSON. I know that.

Secretary MARSHALL. They had about 2 weeks' training, some of it in health care. They cooked and cleaned and did some health care.

Now, rather than paying those people welfare, they were in a job that they thought was useful, a thing that nobody would have done, if they hadn't been doing it. Many of them have started training. They have gotten interested.

Chairman MAGNUSON. We have the same concept with the older Americans, placed them, older people that want to do something, into certain outpatient care, whatever it is, going into homes and taking care of another elderly person.

Secretary MARSHALL. I think that is very useful.

Senator BROOKE. I think it is a good program, because, as the Secretary says, it forestalls institutionalization which, to me, is a thing we ought to try to avoid, because that is very, very costly.

Chairman MAGNUSON. Yes, very costly.

Secretary MARSHALL. It also got some of those people off welfare who didn't want to be on welfare.

Chairman MAGNUSON. I think I was partially responsible for the Veterans' Administration on amputee cases. They were keeping them in the Veterans' hospitals and found that outpatient could do a better job. And there was a job that didn't exist, or switched from the job in the Veterans' hospital, they could have less people there, if some went out to do this.

PROGRAM COORDINATION

I have no objection to the program. What way you can go about it, and what worries me is all the duplication that is going on.

Secretary MARSHALL. To avoid duplication, you let the local authorities decide how they are going to coordinate these programs. Some, for example, can use our program to help them develop their community, so that they can promote economic development.

If they can identify those things that need to be done there, that does not interfere with development or impede it.

What happened in this particular case is the workers are now free to supervise many of these former AFDC recipients, who are out in the communities taking care of people.

Some of those people that I talked with had become interested in the health industry, the health profession, and were going to get additional training on their own.

Chairman MAGNUSON. You ought to have these jobs. I can understand the Labor Department has more of the expertise to find out where they are, if they exist.

I think you ought to explore your employment services.

If an older person walks into an employment service, says, "I would like to be doing something," he's not unemployed, he may be on welfare. He may be just on social security. He would like to be doing something. There is no information for them there at all. I think it is contact that counts.

STATE EMPLOYMENT AGENCIES

We are 50 percent of the State employment agencies, aren't we, in that we pay for them?

Secretary MARSHALL. No.

Chairman MAGNUSON. How much do we pay now?

Mr. ZUCK. The State employment security agencies are 100 percent federally funded.

Chairman MAGNUSON. Yes.

Mr. ZUCK. To the States and the State is not——

Chairman MAGNUSON. I understand the fund has all run out.

Mr. ZUCK. For State benefits some are exhausted.

Chairman MAGNUSON. Yes, they are broke. They give us an IOU, which they are never going to pay back.

Senator BROOKE. Well, hopefully, they are.

Chairman MAGNUSON. I can see a bill on the Senate floor forgiving the States from paying back. I know in any given election year, 33 Senators will vote for that, at least. But the point I am making is that on all these programs, where some of them fall down is there is no contact.

Secretary Marshall. Outreach.

Chairman MAGNUSON. There is no way to ——

Secretary MARSHALL. That is part of the reason we are pushing this Outreach idea.

Chairman MAGNUSON. Yes. Maybe some of these programs could do more about that. Not to give—just to say "Here, it looks like this thing is available." You do that for—unemployment, for other people. You know you say, "Yeah, we have got available, we need 16 carpenters or two pilots," or something like that. You have all that, but in this field you don't. You don't have any statistics or anything for them.

OUTREACH PROGRAM

Secretary MARSHALL. We have a good Outreach program.

Chairman MAGNUSON. Good, that is fine.

Secretary MARSHALL. We are funding that. We think that is a good concept.

Chairman MAGNUSON. How many people we all run into that say, "You know, I would like to do something." And you don't know how to advise them what to do. You can't look in the want ads and get it done. You might. You might do that, but that's about all.

Secretary MARSHALL. We think those decisions about what ought to be done in specific terms ought to be a local determination. There ought to be underlined here that there are useful things to be done.

Chairman MAGNUSON. All kinds of work, if the people knew about it.

PUBLIC SERVICE EMPLOYMENT

Secretary MARSHALL. Let me turn next to the public service employment component of our work here.

The public service jobs program will be continued at the 725,000 level through 1979. This program was expanded from 300,000 to 725,000 jobs as part of the 1977–78 economic stimulus program. We expect that the goal of 725,000 jobs will be reached next month. Outlays for these public service jobs are expected to total $6.2 billion in 1979, an increase of over 150 percent from the 1976 level of $2.5 billion.

Chairman MAGNUSON. That is in the budget?

Secretary MARSHALL. Yes. As a part of the CETA reauthorization legislation, we are proposing in the future that appropriations requests for public service jobs be at levels reflecting economic conditions.

Our budget proposals will provide over 1.2 million jobs and training opportunities for youth through the programs which serve youth exclusively; that is, the Job Corps, the four programs under the Youth Employment and Demonstration Projects Act, and the summer youth employment program.

Outlays for these programs will be approximately $2.3 billion, an increase of $700 million—47 percent—over 1978 and $1.7 billion—260 percent—over 1976.

In addition to the jobs and training opportunities provided for youth through these programs, approximately 365,000 jobs and training opportunities for youth under 21 will be provided in other Department of Labor programs.

Senator BROOKE. Mr Chairman, if we can stop there. I discussed this the other day with Mr. Green.

Secretary MARSHALL. Yes, sir.

Senator BROOKE. The numbers show us that there is no increase in job slot levels from fiscal year 1978 in the following programs: Young Adult Conservation Corps, youth community conservation and improvement projects, and youth employment and training. For youth incentive entitlement, you increase that by almost 10,000 slots, but you decrease summer youth jobs from 1,020,000 to 1 million in 1979. And your Job Corps remained the same, 44,000.

How do you justify that?

Secretary MARSHALL. Partly, it's because here we are talking about the funds for the program we are building up to. This is a better indication.

In other words, Senator, what happened is, this program was approved, signed by the President on August 5, 1977.

Now some of the programs take time to build up. For example, we wanted to double the size of the Job Corps, which started out with about 22,000 slots which served 47,000 individuals in 1977. And it takes some time to increase the size of that program.

INDIVIDUALS SERVED

A better indication of what we are trying to do is to look at the individuals served rather than either the slots or the money, because we are building it up.

If you look at the total number of individuals served, 1977, 1978, and 1979, you can see—with the youth program we are providing for a significant percentage increase through time.

Senator BROOKE. Mr. Secretary, the 1978 bill specifically appropriated sufficient funds for 1,165,000 summer youth jobs. Apparent-

ly, you don't accept this congressional decision; rather you are proposing weeks after enactment of the bill a reduction of 145,000 jobs. Why was that?

Secretary MARSHALL. Partly, it's because we have these other programs. We think, for example, the Youth Employment and Demonstration Projects Act program will provide jobs for young people both during the year and in the summer. So that is the reason you need to look at the total.

Senator BROOKE. Does that make up the difference?

Secretary MARSHALL. It more than makes up the difference.

Senator BROOKE. But do they cover the same age group?

Secretary MARSHALL. Yes, sir, it increases the number of youth served. We think it's in many ways better than just providing for everybody in the summer.

Senator BROOKE. Do you realistically expect a significant decline in the level of youth unemployment in the summertime?

Secretary MARSHALL. Yes, sir.

Senator BROOKE. You really do?

Secretary MARSHALL. I think because of these youth programs and if we concentrate on minority youth unemployment, we can see a significant decline.

First of all, here we are going to be serving over 2½ million youth with these programs. There are 365,000 unemployed black teenagers, 365,000. If we can't concentrate on that program and cause that rate to come down, something is wrong with a program of this magnitude.

Now we won't be able to do it completely, but I think the answer to your question is we can have a substantial change.

Let me say that if you look at the figures on a monthly basis, which is the way we should have looked at the 1977, figures, we have already turned that around. It doesn't come immediately because we didn't have the programs all year.

UNEMPLOYMENT RATE

But if you look at what happened to unemployment during the year, take the black unemployment rate. It increased all during the year until about July, while the white unemployment rate was going down. After July, the black unemployment declined across the board faster than white unemployment.

Now one of the reasons for that is that blacks constitute about 41 percent of the participation in all our programs and about 12, 13 percent participation in the private sector.

Now there is no doubt in my mind that if you target, you can reduce the unemployment rate. We cut the young veteran unemployment rate in half in 6 months, from 189,000——

Chairman MAGNUSON. But there the veteran had some place to go.

Secretary MARSHALL. Yes.

Chairman MAGNUSON. If he wanted a job, he might go to his legion post or he might go to a veterans organization. But what bothers me all the time, we are talking about here's a young teenager, say, let's take a colored man. That is where the big unemployment is. And he kind of thinks, he would like—his parents, say, "John, why don't you get out and get something to do?"

Where does he go? How does he make a start?

This is what bothers me with all these programs. I know some families that have some teenagers and I think if their parents said, "You better go out and get something to do instead of just being out on the street and getting into trouble," they wouldn't know where to send him and he doesn't know where to go.

PUBLICIZING JOB INFORMATION

Secretary MARSHALL. That is the reason we are proposing the youth program to provide information as to where to go.

Chairman MAGNUSON. I know you can get all the information ready and out to your offices. But there it is.

Secretary MARSHALL. But what you also need to do is to get the information to people who can reach those young people. We signed a contract yesterday, for example——

Chairman MAGNUSON. But some places they don't have as good an urban league or as active as they might have in other places.

Senator BROOKE. Or none at all.

Chairman MAGNUSON. Or none at all. Here's a fellow sitting home. His parents are worried about him because he's not doing anything. And I just find people—they—someone asks me, "Well, where do you go?" I can't tell them where to go. Should they go out to an employment agency?

Secretary MARSHALL. Well, that is one place.

Chairman MAGNUSON. That's one place.

Secretary MARSHALL. They can also go to the school.

Chairman MAGNUSON.Well, I guess you're getting programs throught the schools, aren't you?

Secretary MARSHALL. Yes.

Chairman MAGNUSON. But school's out now.

Secretary MARSHALL. What we hope the schools will do before it turns them out is to tell them where in their local community they can go to find out about jobs and training.

Senator MATHIAS. That is an integral part. The schools have to take more responsibility than they have ever taken before if the program's going to work.

Secretary MARSHALL. Yes, sir.

NUMBER OF JOBS AVAILABLE

Senator BROOKE. You handed me this sheet showing 1 million summer jobs in the summer. The League of Cities testified that 1,400,000 summer youth jobs could be effectively used. That's 400,000 jobs more than you're providing for.

Secretary MARSHALL. Through that program. That's not the only program we have.

Senator BROOKE. You say you can make up the difference in the other programs.

Secretary MARSHALL. Youth Employment Demonstration Projects—there will be 244,500 participants in 1978 and 421,100 in 1979.

Now the PSE, Public Service Employment, with that built up and the CETA title I, work experience training and jobs, we think that these program can provide——

Senator BROOKE. So what is the total number of summer youth jobs you expect to have in 1979?

Secretary MARSHALL. Just in what we ordinarily call the summer program, 1 million participants. But we think it's much more important for many of these youngsters not just to have a summer program.

Senator BROOKE. That will take some of the youth off the street, give them jobs that will go through the summer and into the fall and winter and spring and, hopefully, permanent jobs.

Secretary MARSHALL. There are a lot of jobs in short term—it's a useful program, believe me.

We think it ought to be improved, but we think it's important also to at least test this idea and see if we can't provide jobs for people.

One of the things that we are worried about, for example, with minority youth unemployment is labor force participation rate.

What we found last April during the school year is that for young minorities between the ages of 16 and 21, the labor force participation, the number in the work force, was 38 percent, For whites it was 60 percent in that school age group.

YEAR AROUND EMPLOYMENT

The idea behind this new program is can we use it as a way to make it possible for young people in areas where jobs do not exist, as private sector jobs do not now, to have them stay in school and when they get out in the summer, continue to work.

You don't have to go through all the indoctrination and all the other things. You can do a lot better planning.

One of the complaints we get about the summer youth program is that they always start on time but they get lost.

Chairman MAGNUSON. Is it possible to avoid that with a year-round program in as many cases possible?

Secretary MARSHALL. We think that it will be. This will give a good supplement. I think the other point to be made is that you can't reach all the young people with the same program. Some of them that have dropped out of school already are not going to be helped with that program.

PROGRAMS TO FULFILL SPECIFIC NEEDS

That is where the Job Corps makes some sense and where the other aspects of the Youth Employment and Demonstration Projects are designed to deal with those people. That helps us with the targeting. It helps us with a program design to meet the needs of those young people in those communities where they live.

SUPPLEMENTAL FUNDING

Senator BROOKE. Mr. Secretary, why did you fail to request funds to offset the impact of the minimum wage and then rescind that previously submitted request for $500 million for youth supplemental?

Secretary MARSHALL. Well, partly because we were going to put this all into a package and we thought we could maintain the million level for summer youth without it. We were more interested

in trying to meet the target of maintaining the numbers of people and to make it more comprehensive, rather than just look at the summer youth program in isolation.

Senator BROOKE. Are you going to have to come back for a supplemental, as the chairman suggested earlier?

Secretary MARSHALL. I don't think so. I think we can do it with what we have. We will, of course, have a comprehensive youth package in addition to the summer youth program.

CONTACT WITH OTHER DEPARTMENTS

Chairman MAGNUSON. And you have got to have some contact with other departments.

Secretary MARSHALL. Yes, sir.

Chairman MAGNUSON. With the summer youth program. Out in my country, the Forestry Service has a big summer youth program. But nobody knows about it except the guy in the Forest Service.

So he picks them out the way he wants to pick them out, whether they need it or not.

And you people ought to ride herd. You have got to say, well when you have jobs, let us know.

Secretary MARSHALL. Under the Youth Employment and Demonstration Projects Act, the other Departments have to let us know.

Chairman MAGNUSON. Let it be known that there are some jobs out in the forests, and there are many others. Well, those are two that come to my mind. They are kind of peculiar to our neck of the woods. You assure me you have a contract with these people?

Secretary MARSHALL. We do have.

Chairman MAGNUSON. They have kind of an in-house deal. They keep it to themselves, you know. Keep it to themselves. Here is what happens.

Secretary MARSHALL. That's the reason we have been working with them.

Chairman MAGNUSON. If some fellow is lucky enough to wander into my Seattle office, I will say well, maybe there is something down at the Forest Service, and I send him down, he might get it.

But what about the person that doesn't know that? Yes. Isn't that what happens?

Senator BROOKE. Certainly.

Senator MATHIAS. You send him down; he better get it.

Chairman MAGNUSON. Well, that's not the point. These kids that need it the most, you know.

SPANISH-SPEAKING PEOPLE

Senator BROOKE. That black youth unemployment, 40 percent, that obviously is not acceptable, but what about the Spanish youth in the country. I can't get a real figure for Hispanics. It must be really higher than blacks if for no other reason than the language problem.

And many of our cities have large Puerto Rican populations. What are we doing for Hispanics?

Secretary MARSHALL. We are trying to follow the same concept of targeting in Outreach. We have underway in the Department of

Labor a concerted affirmative action program to bring on Spanish-speaking people to help us with Spanish-speaking people.

This was an area in the equal employment opportunity area in which we were deficient. We have an affirmative action recruiting effort underway to get people on the assumption that we can't really do the work unless we have people who understand the people they are trying to reach.

Second, we are trying to deal with Spanish-speaking organizations through our national programs. We are, in addition, viewing language as a job skill, and have signed a contract for a program to teach Spanish-speaking people English as a way to make it possible to improve their earnings, because if you are Spanish-speaking in our society, you are limited in your job opportunities because you don't have that job skill.

So we are trying all those things. The basic idea is the same. That is, getting people hired who can understand the people, because the kind of program that might work with a group of Anglo youngsters wouldn't necessarily work with a group of Chicano or Puerto Rican youngsters.

If you don't understand their value system, the program might be a total failure. This same program might succeed with another group.

Senator BROOKE. I will watch that very closely. Can you give me figures, do you have any reliable figures on Hispanic unemployment, Hispanic youth unemployment?

ACCURACY OF UNEMPLOYMENT RATE

Secretary MARSHALL. We have some figures, but they are not very reliable. We are trying to improve them. One of the things we are trying to do with the commission we have on unemployment statistics is get a fix on how the identified targets move.

Senator BROOKE. When we talk about the Nation's unemployment being 6.4 percent, we have to question that figure because there are a lot of people not included, obviously.

Secretary MARSHALL. One very serious problem we face on an increasing scale is the number of undocumented workers who enter the country illegally.

Chairman MAGNUSON. You have to have at least one or almost 2 percent that are in between. You never know. They shift. Tom, do you have any questions on this particular——

Senator EAGLETON. Not at this point, sir. Later I have some.

Chairman MAGNUSON. Let's go on.

Secretary MARSHALL. The next area, then, I will——

Chairman MAGNUSON. The Senator from Missouri, as you know, has been very active, as has the Senator from Massachusetts, in these hearings.

I am sure they have more questions to ask about specifics than I do.

PREPARED STATEMENT

Secretary MARSHALL. Yes. Let me turn to our worker protection and labor standards because that is another important area. I have

a statement here. Why don't I put it in the record and summarize it?

Chairman MAGNUSON. Put it in the record.

[The statement follows:]

PREPARED STATEMENT OF RAY MARSHALL

Worker Protection and Labor Standards

Mr. Chairman and Members of the Committee:

I welcome this opportunity to present to you an overview of the Department of Labor's appropriation request for Fiscal Year 1979. Since the Committee has already completed most of the hearings on the Department's individual appropriation requests, I will limit my remarks to the major aspects of the Department's request. In these remarks I would like to focus upon what our proposed 1978 supplementals and our 1979 appropriation request mean in terms of providing jobs and training for individuals who are unemployed or who lack the skills necessary to enable them to find regular jobs, and mean in terms of insuring that our Nation's workers receive the protections which are afforded to them by law.

The President, in his recent Economic Report, emphasized the fact that "overall fiscal and monetary policy alone will not provide employment to many in our Nation." He stated that, in order to reach high levels of employment, while maintaining reasonable price stability, we must adopt measures such as the Humphrey-Hawkins Bill which would increase employment opportunities for the disadvantaged and employment and training programs which are targeted on the long-term unemployed and the poor.

Our budget request underscores the high priority the President places on achieving full employment. The budget projection of a four percent unemployment rate by the final quarter of 1983 reflects President Carter's support for the Humphrey-Hawkins bill. The budget proposal also reflects that employment and training programs have become a

permanent--and important--part of the Administration's economic strategy for fighting unemployment.

Our request recognizes the need for targeted, selective employment and training programs directed to the problems of specific groups of individuals. Targeted programs have an important role in supplementing overall economic policy. We have worked very hard during the past year to establish this principle.

1978 Supplementals

Our budget request includes a number of proposed 1978 supplemental appropriations. Many of these supplementals relate to immediate problems facing the Department which have a direct impact on workers. For example, we must begin enforcement of the new Mine Safety and Health Amendments Act on March 9, 1978. Backlogs of petitions for trade adjustment assistance are continuing to build up at an alarming rate, as are complaints alleging violations of the minimum wage law. Therefore, we urge early Congressional action on our supplemental appropriations requests.

1979 Budget Summary

The 1979 appropriation request for the Department of Labor totals $15 billion in new budget authority, including $238 million for the Labor Department portion of the Work Incentives Program (WIN), for which the appropriation is made to the Department of Health, Education, and Welfare. Outlays, which are the real measure of program levels, will total $15.5 billion, including $950 million for Federal unemployment benefits and allowances.

1979 Budget Compared to Previous Years

By immediate comparison, our 1979 request for Department of Labor operating programs represents an increase of $7.6

billion in budget authority and $2 billion in outlays over 1978. A more meaningful comparison, however, is with the appropriation for Department of Labor programs in 1976. Compared to 1976, our request for Labor Department operating programs calls for an increase of $7.2 billion in outlays, representing, in simple terms, a doubling of actual program operating levels since 1976.

A most dramatic increase, for example, from 1976 to 1979 has been in the size of employment and training programs. In 1976, $5 billion was spent on CETA programs, including public service employment and youth programs. In 1979, outlays for these programs will total $11.4 billion, an increase of almost 130 percent. More importantly, the number of participants in these programs will have doubled to over 1.5 million. In addition, the Summer Youth Employment Program has expanded from 888,000 to 1 million participants and the Older Americans program will have more than tripled from 15,000 to 47,500 part-time community service jobs. The tables I have attached to this statement show how the various Labor Department programs have changed since 1976.

Private Sector Initiative

I would like to turn now to specific programs. As I indicated, achieving full employment is a key concern of the Department and the Administration. In addition to targeting our employment and training programs more directly to those most in need, we are proposing a major new initiative to build linkages between the public sector and the private sector, with respect to the private sector's role in the planning and development of employment and training programs. This new private sector initiative, for which we are requesting

an additional $400 million ($250 million in outlays), will attempt to involve the private sector more effectively in the creation of training opportunities and jobs. We are very enthusiastic about this program. We think this enthusiasm is well-justified by the discussions we have had with private employers.

Welfare Reform

We are also requesting $200 million ($125 million in outlays) to set up demonstration projects relating to the jobs component of the President's welfare reform proposal. Under these projects, we want to demonstrate--in a limited number of sites and under various circumstances--the various methods of providing intensive job search assistance and related services to enable low-income family heads with children to find private sector jobs. If no such jobs can be found, they will be provided subsidized jobs through the existing system of CETA prime sponsors. The demonstration projects will provide an estimated 50,000 public service jobs. They will be used to test alternative methods of job creation, measure regional variations in the number and types of clients served, and to try out various management systems which would be used under welfare reform.

Advance planning for the permanent welfare reform program is critical. Therefore, after the Better Jobs and Income Act is passed, the President will submit a request for an additional $50 million to assist all CETA prime sponsors nationwide in their advance planning for welfare reform.

Public Service Employment

The public service jobs program will be continued at the 725,000 level through 1979. This program was expanded from 300,000 to 725,000 jobs as part of the 1977-78 economic

stimulus program. We expect that the goal of 725,000 jobs will be reached next month. Outlays for these public service jobs are expected to total $6.3 billion in 1979, an increase of over 150 percent from the 1976 level of $2.5 billion. As part of the CETA reauthorization legislation, we are proposing in the future that appropriations requests for public service jobs be at levels reflecting economic conditions.

Youth Programs

Our budget proposals will provide over 1.2 million jobs and training opportunities for youth through the programs which serve youth exclusively, that is, the Job Corps, the four programs under the Youth Employment and Demonstration Projects Act, and the Summer Youth Employment Program. Outlays for these programs will be approximately $2.3 billion, an increase of $700 million (47 percent) over 1978 and $1.7 billion (260 percent) over 1976. In addition to the jobs and training opportunities provided for youth through these programs, approximately 365,000 jobs and training opportunities for youth under 21 will be provided in other Department of Labor programs.

Worker Protection and Labor Standards

I do not want to leave you with the impression that the Department's concern for the worker is limited to the unemployed worker. We have taken some major steps in our other programs. Although it represents only a small proportion of the Labor Department's budget in terms of dollars, one of the most important mandates of the Department is the enforcement of its protective legislation. The Occupational Safety and Health Administration has the responsibility for protecting workers from occupational diseases and other hazards. The Department, under the Employee

Retirement Income Security Act has the responsibility for safeguarding employee pension plans. The Employment Standards Administration upholds labor standards, operates the Office of Federal Contract Compliance Programs and several workers' compensation programs. In addition, the Labor Management Services Administration runs a number of programs that aid labor-management cooperation.

The role of the Labor Department in protecting the rights of workers will be further strengthened by the transfer of the Mine Safety and Health Administration from the Department of the Interior. Spending for the Mine Safety and Health Administration will be $124 million in 1979. This represents a $14 million increase (13 percent) over the combined Interior and Labor Department expenditures for this program in 1978. There is also a 1978 supplemental appropriation for this program.

Occupational Safety and Health Administration

The 1979 request for the Occupational Safety and Health Administration will enable us to strengthen and improve on the new directions which have been initiated during the past year. We have laid out a very effective strategy for enforcement. We have also recognized that all five million workplaces cannot be inspected by the Government. This has led to a concentration on high hazards and the development of targeting models for the identification of severe safety and health problems.

Also, the budget proposal reflects our belief that the overwhelming majority of employers want to cooperate with us and want to provide a safe and healthy workplace for their employees. I believe that voluntary compliance with the Act is essential if the occupational safety and

health program is to be effective. To assist employers, especially small businesses, in their voluntary efforts, our budget proposal includes an expansion of free on-site consultation services available in all States and an expansion of education and training for employers and employees.

Other Budget Proposals

Other major budget proposals include:

-- The establishment of voluntary tripartite construction industry coordinating committees in three cities--Chicago, Kansas City, and San Francisco--by the Labor-Management Services Administation to solve problems of industry instability, to coordinate the timing of construction projects, and to monitor major private construction projects.

-- Additional staff for the Employment Standards Administration for handling of workloads relating to the new minimum wage legislation and the Federal Employees' Compensation Act program.

-- Additional funds and staff for the Bureau of Labor Statistics to continue the revision of the industrial price series, a multi-year project which is now underway, and to improve local area unemployment statistics through the use of quarterly, rather than monthly, unemployment data.

-- Increased staffing in the Departmental Management appropriation to support the audit and adjudicatory functions, the trade adjustment assistance program, and the full range of legal services provided to the Department.

I would be happy to respond to any questions you may have.

IMPROVED PROGRAM MANAGEMENT

Secretary MARSHALL. We are trying to improve the management of our programs. This has been particularly true through the year.

If you take any one of those, the Fair Labor Standards Act, or Occupational Safety and Health, the Office of Federal Contract Compliance Programs, you face a number of very serious problems. One is that the gap between the resources you have available, or are likely to have available, and the job you have to do is always so great that you have to develop strategies for dealing with the problems.

OSHA REGULATIONS

In other words, in OSHA we faced the reality of 5 million firms and 1,400 inspectors, so what we had to do then was say, how can we use the resources we have most effectively?

And we undertook a comprehensive study of the program. What we found was, what we would have to do was quit doing a lot of things we were doing that didn't have much effect on the safety and health of workers. We found there was too much redtape.

We cut out most of the paperwork requirements for relatively small employers, and greatly reduced the paperwork requirements for all the rest. We took just last month——

Chairman MAGNUSON. If you don't, we are not going to give you any paper.

Secretary MARSHALL. Yes, and announced the elimination of 1,100 provisions in the OSHA regulations.

Senator BROOKE. It sounds ridiculous, but it isn't ridiculous when you consider what we have to stand on the Senate floor and take.

Chairman MAGNUSON. Senator Eagleton took this on last year. I think his work on it probably did something, too, from what I read, doing what you are talking about, because it got ridiculous on the floor of the Senate.

Secretary MARSHALL. I found out how ridiculous it was. I went out myself with an OSHA inspector.

The other assumption was that since we couldn't do the job through regulation alone, we had to encourage as much self-regulation as possible.

TECHNICAL PROBLEMS

We found that most employers want a safe and healthy work place. As a consequence of that, they will help us, really. Many of them want us to help them with technical problems.

Some of these questions are very technical. One of the biggest problems was the noise level. That is not a thing you can detect simply by listening, because I would have missed it every time in this particular factory. The place that seemed to be noisy was not always the one where you really had the high noise levels.

There were other technical things that the trained eye could see that ordinary people wouldn't see; even the people who ran the factory didn't see.

For example, one of the serious problems in this particular factory that I helped inspect was that they had toxic fumes escaping

into the atmosphere that they didn't know about because they had a lift going down into a vat. They were bringing things up too far before they dropped it back down, and as they brought it up too far, the condensing coils didn't cause it to go back in. So, there were toxic substances escaping.

The man who ran the factory didn't know that, and he was delighted to have the people point it out to him.

So, there are some things we can do to help, and we make the assumption that people want to work with us. Then we can use our resources together to focus on irreversible problems, serious problems that kill people, and problems that will cause irreversible damage to their health.

That is essentially what we have been trying to do. We are trying to follow that same pattern with all our regulatory programs.

NO ADDITIONAL OSHA INSPECTORS

Chairman MAGNUSON. Now, in the budget, this is a quickie question, we will go at it later. There is no request for more OSHA inspectors. Is that correct?

Mr. ZUCK. That is correct.

Chairman MAGNUSON. You are going to have them all out here in the hall, wanting us to increase them. I don't know, but we will get to that later.

Secretary MARSHALL. Do you want me to deal with that now?

Chairman MAGNUSON. You can, if you want. Tom, you know this very well.

Senator EAGLETON. We heard OSHA yesterday, Mrs. Bingham, in some depth.

Chairman MAGNUSON. All right, then. We have it on the record.

Senator EAGLETON. Could I make sort of a good news—bad news kind of a comment? The good news; in November, I held a small business forum in St. Louis. By the way, I recommend these for either Seattle or Boston, as well. We brought in about 650 small businessmen to teach them how to bid on Federal contracts. They can't compete with McDonnell Douglas, but they might be able to make a widget for McDonnell Douglas, so there was a luncheon thing where they asked me questions.

At the end I said, "I am going to list a bunch of dirty words, and you tell me how big the dirty words are." Product liability was a dirty word. I mentioned ERISA and a few hands went up. And then I said OSHA, and the fewest number of hands went up. And I said, "I'm dumbfounded." So I said, "Who has had experience with OSHA?" Several hands went up. They said they did fine, they came in, did this job, they were decent, respectable. They were not outlandish.

I think Dr. Bingham has just done an absolutely superb job. It hasn't evaporated.

Senator BROOKE. Is that the first meeting you have had of that kind?

Senator EAGLETON. Yes. This was in November, just a few months ago, so I think she's helped.

Now, the bad news. Grain elevator disasters. We have had six now in about 4 or 5 weeks. Galveston, New Orleans, one in Missouri. About six of them. None of us have the answers, but the primary responsibility is going to sort of have to be in Secretary Marshall's lap. Why these all hit almost contemporaneously in a short period of time is mind-boggling. I know you are working at it, but I think it's a matter that we have to give top priority to.

Senator BROOKE. We are a long way away from that.

Secretary MARSHALL. That is a serious problem. Part of it goes back to cooperation between Federal agencies because we have Federal grain inspectors, and we have now worked it out with them.

Senator EAGLETON. Grain inspectors were killed in one or two of these things.

Secretary MARSHALL. Absolutely. They are on the scene, and by working with them we think we can do a much better job of getting the thing solved.

Senator EAGLETON. Aren't you going to need a little extra help? I sense some reluctance. You have got jobs to do, and work to do, but you are prepared to do it all with the same number of people. We are not trying to burden you with people but, you have got enough? Is that what you are saying?

Senator BROOKE. Has the consultation picture improved?

Senator EAGLETON. Yes.

Secretary MARSHALL. That is part of the answer. Try to make a whole lot better use of the people.

Chairman MAGNUSON. Yes, find out ahead of time. Isn't that what they do?

Senator EAGLETON. Yes.

Secretary MARSHALL. Use the preventive approach to it. I don't think the only way to get prevention is by inspection. I think that is an important part of it, but an additional way to get prevention is through education of employers and employees to help them recognize serious problems. Then we are going to use our resources to really go after those people who are not willing to cooperate with us, and who are not interested in having a safe and healthy work force.

Rather than assuming that by going around looking for how high the fire extinguishers are off the floor, or whether you have a split toilet seat, or whether there is a hook on the back of the door, we want to look at the grain elevators. That is what we are doing.

Part of it also is to identify your targets by looking at the places where you are most likely to have trouble. And then, tell industry: You know you are likely to have trouble; we know it. What can we do about it?

We did that with the grain elevator people, and have been working out a plan of action. We issued, as Dr. Bingham undoubtedly told you, an alert, that put together the very best information we could find about why they were having those explosions, and pointed out some things employers could do to minimize it.

We hope, of course, to be able to greatly reduce that kind of a problem. But it is serious. And that is the kind of thing we think we ought to be using our resources for.

We have also increased OSHA's budget. Part of the added resources would be to do other things—education and consultation, particularly. Now, that will make it possible for them to do the job more effectively without relying exclusively on inspections. We also are trying to work more closely with States that have occupational health and safety programs to help them do more in their areas.

COMPLAINTS ABOUT OSHA

Chairman MAGNUSON. The most vociferous complaints I get come from the homebuilders.

Secretary MARSHALL. About OSHA?

Chairman MAGNUSON. Yes. Ladders, scaffolds. They claim they are burdensome, not needed.

Secretary MARSHALL. Most of the regulations we tore out of the book had to do——

Chairman MAGNUSON. Particularly single detached dwellings. Building one of those, you don't have the same restrictions you have on building duplexes or high apartments, things of that kind.

IMPROVED REGULATIONS

Secretary MARSHALL. Several pages of regulations we just announced that we are eliminating are on ladders.

Senator BROOKE. You know, this is all fine, and I concur with everything you are trying to do, but you know, there are still a lot of injuries and occupational hazards, and we just can't take that policeman away.

Secretary MARSHALL. You cannot. I agree.

Senator BROOKE. That is a good piece of legislation. I think it was landmark legislation, and we have to say: "All right, we are not going to be burdensome. We are not going to have the toilet seat type of inspector, we are going to improve inspectors, but still, we have to have that policeman there." If you don't, it's just not going to work.

Secretary MARSHALL. It's like Dr. Johnson said: "There is nothing like the threat of hanging to concentrate your thoughts." He found you get concentrated thoughts——

Senator BROOKE. You have to have that deterrent factor, or the same people criticizing us now will slip right back into the old ways. I am reading a book entitled "Trinity." I don't know if you have read it. I am reading about this plant in Missouri, that really, it just makes you shudder. I have seen some of these plants in my own State; we are not that far from where we were way back in the 1800's.

It is unconscionable to think that people have to work under some of those conditions. I say again, I applaud what you are doing, but let's don't remove that policeman.

Secretary MARSHALL. We won't attempt to.

LIAISON WITH COAST GUARD

Chairman MAGNUSON. One quick question. There are a lot of Coast Guard regulations on pleasure boats. I mean smaller boats. Out in my country, of course we have more boats than—and there are a lot of safety regulations that apply to the marinas themselves. Do you cooperate with the Coast Guard on that? How does that work?

Secretary MARSHALL. I know we do have cooperative arrangements and we are trying to work more closely with them.

Chairman MAGNUSON. Complaints are more about the Coast Guard. But the marinas, they don't come under OSHA, do they,

Secretary MARSHALL. I think they do.

Chairman MAGNUSON. So you have to have some liaison.

Secretary MARSHALL. We do have liaison.

Chairman MAGNUSON. Have someone give me a note on that. Just what the cooperation is.

Secretary MARSHALL. I will be happy to submit for the record a copy a cooperative agreement between OSHA and the Coast Guard.

[The information follows:]

U. S. DEPARTMENT OF TRANSPORTATION
U. S. Coast Guard

U. S. DEPARTMENT OF LABOR
Occupational Safety & Health Administration

January 31, 1978

Harrison Wellford
Executive Associate Director for
Reorganization and Management
Office of Management and Budget
Old Executive Office Building
Washington, D. C. 20503

Dear Mr. Wellford:

With reference to your memorandum of December 2, 1977 we are pleased to enclose the attached "Program to Resolve Interagency Conflicts," dated January 31 , 1978 (Enclosure A).

We wish to emphasize that the relations between our agencies have been most cordial and cooperative. We are now working closely together at several levels, and most recently our agencies successfully cooperated in the joint development of regulations affecting commercial diving.

We are confident that our joint efforts can bring about a resolution of many of the issues currently before us, and more importantly lead to a Memorandum of Understanding which will clarify jurisdictional problems regarding occupational safety and health in the maritime area.

Extensive preliminary discussions have already taken place between Rear Admiral William M. Benkert, Chief, Office of Merchant Marine Safety, U. S. Coast Guard and Basil J. Whiting, Deputy Assistant Secretary of Labor for Occupational Safety and Health. These discussions have led to an agreed upon course of action covering such areas as standards review, joint rulemaking, cooperative enforcement, and resolution of jurisdictional disputes (Enclosure B).

To implement this program a task force will commence work immediately. The accomplishment of this group's mission will be accorded priority within each of our respective agencies. It is our intention to provide you with interim status reports.

Your interest and understanding of our problems in this area are greatly appreciated.

Commandant
United States Coast Guard
Department of Transportation

Assistant Secretary for
Occupational Safety and Health
Department of Labor

PROGRAM TO RESOLVE INTERAGENCY CONFLICTS BETWEEN THE OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA), DEPARTMENT OF LABOR, AND THE UNITED STATES COAST GUARD (USCG), DEPARTMENT OF TRANSPORTATION

The Occupational Safety and Health Administration is charged with assuring safe and healthful places of employment for all American workers; and

The United States Coast Guard is charged with comprehensive responsibility for maritime safety.

The two Federal Agencies must cooperate in all areas of mutual inter-

est and concern in order to enhance safety and health, eliminate wasteful duplication, and to avoid undue burden on the maritime community.

Specifically, to maximize the level of occupational safety and health protection, and to increase the effectiveness of allocated federal resources, the two agencies will:

1. Review the safety and health standards (regulations) of each agency, and determine which are most appropriate for maritime activities.

2. Explore ways to strengthen existing safety and health protection, and eliminate duplication of effort.

3. Assist each other in future promulgation of occupational safety and health standards (regulations).

4. Develop procedures for cooperative enforcement programs.

5. Institute a program of cross-training in such areas as workplace hazards identification and industrial hygiene, and safety of life at sea.

6. Establish a mechanism to resolve jurisdictional problems, and otherwise promote the harmonious interrelation of the activities of the two agencies regarding matters of mutual concern.

Signed at Washington, D.C. this 31 day of January,

Commandant
United States Coast Guard
Department of Transportation

Assistant Secretary for
Occupational Safety and Health
Department of Labor

AGREED UPON COURSES OF ACTION BETWEEN THE OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION AND THE UNITED STATES COAST GUARD

A. Near-Term Objectives (January-March 1978)

1. Form an interagency task force to pursue intermediate and long-term objectives.

2. Mutual reconciliation of diving regulations.

B. Intermediate Objectives (mid 1978)

1. Review all applicable regulations of both agencies to attain consistency between the agencies regulations.

2. Coast Guard promulgate agreed upon additional personnel safety and health oriented regulations for application to "inspected vessels." In the interim, the Coast Guard will continue to enforce it's existing personnel oriented safety and health regulations on "inspected vessels" and both agencies will explore ways of improving worker protection on such vessels.

3. Develop procedure for joint rulemaking where appropriate.

4. Explore CG enforcement of OSHA regulations under Section 7(c)(1) of OSH Act on uninspected vessels and/or establishment of joint inspection program.

5. Provide OSHA Industrial Health personnel for CG use and OSHA training of CG personnel on OSHA standards.

C. Long-Term Objectives (late 1978 and 1979)

1. Complete interface of substantive safety and health (Maritime and related) regulations.

2. Joint inspection/resource utilization program.

3. Mechanism to resolve jurisdictional/legal interagency problems.

Chairman MAGNUSON. OK. And that's it?

Senator BROOKE. We can submit some questions for the record.

Chairman MAGNUSON. We will, by all means. The Senator from Massachusetts has some further questions he wants to submit for the record. You can take your time. Then Senator Eagleton has some questions, I know. I am going to go for just a minute. Tom, you take over. I will be right back.

Senator EAGLETON. Fine.

Senator BROOKE. I am going to submit some questions for the record.

Senator EAGLETON. Good. I will go through these pretty quickly.

Chairman MAGNUSON. I have to go to my office, Tom, so you finish up.

DECREASE IN NUMBER OF JOB TRAINING PROGRAMS

Senator EAGLETON [presiding]. OK. At the present time we have about 17 different job training programs in the employment and training, administration. Now, the fiscal year 1979 budget proposes to reduce that number to 15. How many? Recommending no new funding for migrant and Indian initiatives, and disabled veterans outreach programs, and the like.

At first blush, I guess you think I am going to criticize you for compressing this down from 17 to 13. My question is more along these lines. Really, shouldn't we have even fewer programs, but do the fewer better than so many, so thinly? And I have this stuck in my mind, not only with respect to you, we are going through the aging, Old Americans Act. We are going through green thumb, and some of these things over in the Labor Department, et cetera. We had Secretary Califano, one night this was, and he told me 82, I think he said, separate educational programs.

He said: "Look, I'm a hard worker, I think I'm reasonably bright, but I can't run 82 separate educational programs, and do welfare, and everything. Even if I did just education, I couldn't monitor 82."

So, I have this thing stuck in my mind. Why don't we have a good black minority program. Youth, et cetera. And have fewer, but really do those intently or intensively, or is that asking too much?

Secretary MARSHALL. No, I don't think it's asking too much. I think the two words we are trying to apply to all of our programs are simplification and concentration. We want to try to simplify as

much as we can, and cencentrate on the important things as much as we can.

One of the reasons that you have to do some targeting after you identify a program is because in the CETA system, you have a national objective you are trying to accomplish, and what system will do that, as a result of getting the resources for employment and training.

We were concerned, for example, that under the CETA system, participation by young people declined. So, we had to have a youth program in order to deal with that. On-the-job training declined as a proportion of the total, drastically, even though we know that—in most standards of training—on-the-job training is a very effective way to train people.

It is inexpensive, or less exensive than institutional training. But it went down. Participation by veterans, particularly younger Vietnam era veterans, was not adequate. You get some of these areas like migrant and seasonal farm workers who aren't in any jurisdiction so that you need a national program.

Senator EAGLETON. Sure.

Secretary MARSHALL. Then you have other areas like the Job Corps. It probably makes more sense to have that as a national program, controlled nationally, than it would to let the local system do it.

It is conceivable that a program like Job Corps might, for example, be run by States. But it would be very difficult to run by local units of government, the cities and counties.

Now, we think the rule ought to be that, wherever we can, we ought to give flexibility and to simplify and improve the management of the program.

We believe simplification improves management, because when you get too much information you don't know anything. When you get too much information you are unable to really understand what you are doing. If it gets so complex people aren't able even to evaluate what they are doing. If you get so many different objectives in a program you don't know whether it has succeeded or failed.

So simplification becomes important and we ought to push that.

REASON FOR CATEGORICAL PROGRAMS

Now, the reason for having what appear to be categorical programs if that in order to meet some of these national objectives and meet the needs of some groups that are not likely to be adequately served and achieve some purposes, like improving the private sector linkage you are not likely to be able to get them otherwise.

Senator EAGLETON. Well, I understand. Migrants, unless you really deal with them specifically, they will just not be in any other program. Nobody is going to pick up migrants.

So there has to be some specificity.

Secretary MARSHALL. You get the political problem with the Indian reservations. Who has jurisdiction over an Indian reservation?

Senator EAGLETON. Yes.

Secretary MARSHALL. That means you need to have a special program——

Senator EAGLETON. I understand.

Your approach is very rational. Just as a footnote, yesterday in holding this aging hearing we covered many specific aging programs. Here is one.

REHABILITATING HOMES OF THE ELDERLY

There is $8 million being spent, Federal money, to rehabilitate homes of elderly people, $8 million nationwide. I could spread that in one ward in the city of St. Louis and still not have rehabilitated the homes of all the elderly that needed it.

I am talking about weatherizing them, winterizing them, whatever the term is. Yet we are spending $8 million. It is a hoax. When somebody writes me, what are you doing for people who live in their homes and they aren't insulated, oh, we have a Federal program. We tell them all about this wonderful program. $8 million. And you know $800 million wouldn't do the job. So I am in favor of doing away with the program because I think it is a deception. I think it is an excuse that we, the Congress, use and I think some executive branch people occasionally take refuge in that kind of a program.

I think we would be better doing some things targeted. Let me ask you about a private initiative thing.

RESPONSES TO JOB OFFERS

Here is a sentence or two from an interesting businessman in Kansas City. They are selling automotive manufacturers. He says we can't get people to fill the job openings we have. Starting pay is $3 an hour, we give them raises and after 6 months we bring them into health programs. We hire inexperienced people, many black, many from welfare rolls. But many of them do not have a desire to work.

He encloses figures which show that of 24 prople hired in November only 2 are still working and the rest quit.

Then another footnote out of Kansas City as well—we had a big flood out there you may have read around Thanksgiving time. There was a lot of cleanup to be done. They put an ad in the paper and said, "We need a couple hundred people. We will pay you $603 a month.

"I know that isn't a lot a month. But come one come all. If you want to help us clean up you can fill these jobs."

I think they had 6 applicants for 200 jobs.

Then in the next edition of the Washington newspaper, 12 skilled jobs at a plant in Oklahoma City, private jobs, did you see that? Two thousand people converged on that plant. It was an AP wirephoto and it came about a week after the Kansas experience.

Secretary MARSHALL. We have had similar experience in Kansas City almost every time we open up a job. Even last winter, we, in New York, opened up jobs moving snow and ice by hand because you couldn't move it by vehicle because the cars had gotten trapped in all the snow and ice and you couldn't use the machines.

The thing that impressed me, being basically a warm-weather person, is that people lined up in subzero weather before daybreak to get those jobs in New York moving that snow and ice.

We did the same thing after—we made 2,000 jobs available. Each time we have 8 or 9 applicants for every job. We had the same experience with the rubble removal program after the riots that accompanied the blackout in New York.

In Atlanta we had some jobs, they broke the doors down to get in to sign up.

Senator EAGLETON. Why only six in Kansas City?

Secretary MARSHALL: I don't know. We would have to examine the job.

Senator EAGLETON. They are dead end jobs.

Secretary MARSHALL. Well, moving snow and ice is not a job that leads to anything I know about.

And cleaning up rubble also—I think the important points are, and I think this refers to the same experience with the Kansas City businessman, as follows:

TRAINING, EXPERIENCE, WORK DISCIPLINE

In the first place, it is true that a lot of people need work experience and training. Work discipline. That is one of the things we try to provide a job for, you need to get work discipline and training for people who haven't pariticipated in the work force. That is the reason unemployment among young people is such a serious problem.

We have a whole generation of people who have never worked, never had a regular job. So we can't really expect people to develop and know work skills and habits and all the rest of it.

JOBS IN THE CITRUS INDUSTRY

The other thing is you need to look at these jobs. The question is, is there something about the job that tends to turn people off? I had this experience trying to improve jobs in the citrus industry in Texas, Florida, and California before I came to Government.

What we found was that frequently where there has traditionally been a labor surplus, employers tend to develop job procedures and techniques that tend to keep people from taking the job.

In citrus, for example, they use the piece rate. That gave very little incentive for anybody to manage so the jobs just weren't well organized and people wasted a lot of time. And that was at their expense, their own piece rate.

Well, sometimes what has to happen is people need to look at the jobs and ask themselves as we did in the citrus case, why wouldn't the people who are there and who are counted as unemployed and who are not working take those jobs?

In a local labor market there is only one way to find that out. That is to go and ask them. We did in this case and they said it was all the sitting and walking time. It wasn't that the job was hard. The work wasn't well-enough organized that they could produce enough in the length of time and it was not that the people were lazy because those people went all the way to the Midwest.

They come all the way to Missouri and Ohio and the Northern States to do the same kind of work and to do agricultural work.

What we found is it wasn't a hard problem to solve, but nobody had much incentive to solve it. I believe that all the evidence indicates to us that people really want to work.

REDUCING THE UNEMPLOYMENT RATE

That is one of the reasons, of course, we have had so much trouble getting unemployment down. One of the reasons we had to create 4.1 million jobs last year to get unemployment down by 1.4 percent is that so many people wanted to work that the labor force participation rates increased faster than unemployment went down.

And these were, you know, not necessarily good jobs.

Senator EAGLETON. Well, the point I am making and I know conditions will vary between New York where a lot of people turned out for the snow removal job and Kansas City, it became a front-page article. Nobody showed up. Nobody sought these jobs.

But you know, you use that slogan, private sector initiative. And we need it. We want to be the employer of last resort. What do I tell my guy? Suppose I give a speech before another business group and say, by God, we have got to have private sector initiative, and this guy is in the audience and said, well, I made a private sector initiative and let me tell you what happened.

Let me give you another case. I don't know what the politics of this guy is. I have a liberal Democratic businessman friend in St. Louis, that is almost a nonsequitur, liberal businessman friend, he really is. He has repeatedly called the Missouri State Employment Service, he runs a steel fabricating plant, they make replacement axles and steel springs for brakes and trucks. A relatively unskilled job.

He pays current wages, whatever the thing is. He calls the employment service—gets people who last 3 days, maybe 1 week, maybe 2 weeks; and even as a liberal he says, I don't know what to do. I have called the Missouri State Employment Service.

Secretary MARSHALL. He is worried about the kind of people——

Senator EAGLETON. No, no, they send them down and they don't show up after the forth day or third week. They have on-the-job training and get a pretty good hourly rate. I don't know off the top of my head what it is. It isn't like being a carpenter or electrician, but it's considerably above minimum wage. And I hear that.

Secretary MARSHALL. There are all kinds of possible explanations. Maybe these are conservative workers. Maybe they don't want to work for a liberal.

Senator EAGLETON. Let me bounce around a couple of quickies, Mr. Secretary.

NEED FOR MORE OSHA INSPECTORS

Back to OSHA. Consultation services are primarily to help small employers learn how to comply with the law. Don't you still need more inspectors to enforce health and safety standards in big and dangerous industries, environmental health, asbestosis, big indus-

trial situations where lots of people could be seriously injured? And we don't have to go through grain elevators again.

Think it over. If you need more help, you may have constraints with OMB, and what have you. I am trying to get you to think on your budgets. If you do, let us know.

UNREALISTIC UNEMPLOYMENT GOAL

Would you comment on this? Sort of a Humphrey-Hawkins kind of a question. The chamber of commerce has testified that the 4-percent unemployment goal is unrealistic, and might require $45 billion of Federal spending, says the chamber of commerce.

What is your assessment of the likelihood of reaching 4 percent unemployment by 1983?

Secretary MARSHALL. I think it is very high if we do all the things Humphrey-Hawkins contemplates, and we are able to continue to get the unemployment rate down.

Humphrey-Hawkins, it seems to me, is important really for two things. One is that it sets the target, and I think it is important to have a target, and say, "This is something we will move toward. It is important for decisionmaking because when we start making decisions about what are we going to do, if we can always start with assumption, well, we went to get to 4 percent.

If we don't do this, we won't get it. That helps you if you set that out as a target.

Senator EAGLETON. What is going to be the Federal cost, a ballpark figure?

Secretary MARSHALL. We believe that with the things already laid out, welfare reform, and CETA programs, we have laid out the numbers here. We believe the assumptions are realistic and reasonable. Our assumption is that, not counting all of the selective employment programs we have outlined, we can get unemployment down to about 4.8 percent with just general policy alone, without inflationary pressure at all.

That means if you make the assumption that the reason you get the inflationary pressure is structural problems, then the logical answer is, "Let's use structural programs to get the rest of it."

4.8 PERCENT UNEMPLOYMENT BY 1981

If, for example, by 1981, we have gotten unemployment down to 4.8 percent through these programs, and if we have, in the meantime, adopted public service employment and training programs that will serve 2½ to 3 million people, then by targeting those programs, you only have 0.8 percent to get down. If you have programs for 2½ to 3 million people, there is something wrong if you can't get it down the rest of the way; that other 0.8 percent by using these programs.

ILLEGAL IMMIGRATION

Now, there are other things we need to do that probably make it easy to get to that target. The thing that we don't know about, and I would say in my judgment, the most critical thing that I don't know about that would determine how hard it will be to reach that target, is what we do about illegal immigration.

Senator EAGLETON. I wish you hadn't mentioned that.

Secretary MARSHALL. That is a leakage in the system that we can't really anticipate. But let's say we take care of that.

The other thing that we can do that would have a tremendous effect——

Senator EAGLETON. That is a big hypothetical assumption.

Secretary MARSHALL. I think it is going to get worse rather than better, and that we need to really concentrate on trying to deal with it.

ELIMINATION OF DISCRIMINATION

The other kind of thing that we can do that would help immeasurably is to proceed to eliminate discrimination. One of the biggest predictors of what that unemployment rate is, after which inflation sets in, is the unemployment rate of white males, 25 to 55. That is one of the big bottlenecks in the system. That is because they control the bottleneck jobs. We are part of that; we control those bottleneck jobs.

If we break down the discrimination that restricts entry to those jobs to white males, then we will be able to lower that rate of unemployment at which inflation sets in. That means a good, effective, antidiscrimination program can do a lot to help us reduce that 0.8 percent gap that we have left in order to get down to 4 percent.

If we could, for example, reduce the black to white unemployment ratio from over 2 to 1½, we would gain another two-tenths of a percent on that point by 1983. We are not talking about equality. We are talking about 1½.

I think the main point is that we can do it if we make certain assumptions about illegal immigration, and what we do about energy, because every time we import one barrel of oil on an annualized basis, it costs us one job.

EFFECT OF IMPORTING OIL

So, 1 million barrels a day per year is 1 million jobs. If we do something on the energy front to reduce that, we develop alternatives sources of energy like coal, and wind, and thermal, any other; then it will be a lot easier to reach that target.

The chamber of commerce is not given to understating its case. I think, here, they have virtually overstated their cases, about how much it would cost, and about how hard it would be for us to do it.

Senator EAGLETON. That is excellent. Give me a copy of the text of that. That is one I want to read again. That is very interesting. A lot of "ifs" though.

It does get worse, and I agree with you. It is going to get worse before it gets better, and that mucks up some of the projections.

UNDOCUMENTED WORKERS

Secretary MARSHALL. In exactly the markets we are trying to talk about because most of the undocumented workers are coming into the markets with high minority, women, and youth unemployment.

Senator EAGLETON. Secretary Marshall, with respect to black unemployment, you have outlined the problem in part as follows:

Number of black jobseekers has increased faster than white, cities don't promote jobs, jobs in the suburbs, those are all probably truthful and accurate.

How do we overcome them?

Secretary MARSHALL. Part of it is that we use our public service jobs, training, and work experience programs either to get the jobs where the people are, or to get the people to the jobs.

By training people, you can, sometimes, get them to the jobs. What the business people tell us is that those who have jobs are going into areas outside black population concentrations, if we get them job-rated, they will hire them.

In many cases, I think that will be the case. But it also means we have to be effective in our antidiscrimination activities to see to it that that is the case. I think the combination of jobs, training, and work experience will make it possible for people to move to jobs.

The other thing we need to do is to get more jobs where people live. I believe we can use our public service employment training to start that process. We can put them to work immediately.

JOBS HELP DECREASE CRIME RATES

Maybe, if we put them to work at the kinds of things that will help the place develop, other jobs will come. Maybe, for example, crime is a problem. We can use these jobs to help get the crime rates down. Maybe in many rural areas, fire protection is an impediment to economic development. Maybe it is just skills; maybe people won't come into an area because people don't have job skills.

Well, if we coordinate the activities, development activities, as a lot of people have with the so-called startup training concept, you will see to it that the employers get the kind of people with the skills they require when economic activity starts up.

JOBS FOR THE ELDERLY

Senator EAGLETON. One final question: I mentioned my hearings on aging. Now, there are four well, really five programs that the Labor Department's running in terms of the elderly for jobs, et cetera.

One is purely Federal, in a sense. One is the Forest Service; so skip that. Well, no, include it, too. You've got farmers union doing one, then a joint entry with the AARP and retired teachers; National Council of Senior Citizens is doing one, and National Council on Aging.

ENROLLMENT CHARACTERISTICS

I would like to have, to get the following information for me and the record. I want to know the racial characteristics of the clients these programs are reaching, black, white, Spanish surnames, et cetera.

[The information follows:]

Enrollment characteristics of Senior Community Service employment program participants

[As of Oct. 1, 1977]

Current enrollment	27,812
	Percent
Disadvantaged	100
Male	42
Female	58
Race:	
White	75
Black	20
Native Americans	2
Other	3
Spanish American [1]	6
Age:	
55 to 59	22
60 to 64	27
65 to 69	27
70 to 74	15
75 and older	8

[1] Also included in the racial groups.

INCOME CHARACTERISTICS

Senator EAGLETON. I want, if at all possible, the income characteristics. Let me explain what I mean on that. If we break the country down into four groups: Rich, moderate, poor, and very poor; you know what I mean. We have official Bureau of Labor Statistics terms. I am absolutely convinced that none of these programs are going to the rich. Obviously, they shouldn't.

I am convinced that maybe a few moderate people, somehow or another, get into the program, but I am not going to scream about that. I have the feeling, maybe erroneously, that we are reaching many poor people, but I also have the feeling we are not reaching the very, very poor.

Now, I may be totally wrong on this. My intuition comes from, I go around to a lot of the nutrition centers. That is not your department. And I haven't done it scientifically, or anything, but I get the feeling that there are no rich people there, maybe one moderate person, probably not. These are, I think, what I will call the "walking poor" are there; but, I think, the very poor never heard of the program, nobody knows who they are.

Maybe I am all wet, but I want to know. I want to know whether you can glean those statistics. Somehow or another, we should have those because even though these are being handled by these private contractors, including the Forest Service, we are giving them the money, and we ought to know a little about who they are reaching.

Maybe I am all wet. If I am, wonderful.

Secretary MARSHALL. We have an interest in programs for the elderly. I think we ought to be able to produce that. I don't know why not.

QUESTIONS SUBMITTED BY SENATOR EAGLETON

Senator EAGLETON. I have additional questions which I will ask you to answer for the record.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

BLACK UNEMPLOYMENT

Question: How much can we expect Labor Department programs to reduce the high rate of unemployment for blacks?

Answer: Although precise estimates are not available for the future periods, some rough calculations on fiscal year 1977 data should provide a fair approximation for fiscal year 1978. During fiscal year 1977, roughly 463,000 blacks and other nonwhites of all ages were enrolled in CETA programs under Titles I, II, VI, and the Title III summer program at any given time. Data collected as part of the Continuous Longitudinal Manpower Survey (CLMS) on activities of CETA participants in the period before their enrollment in the CETA program allow estimates to be made of the labor force status of participants in the absence of participation in the CETA program. Adjusting the black and other CETA participants' totals by these data, the Labor Department estimates that black unemployment was reduced by 150,000 and their labor force participation increased by about 200,000. Adjusting the measured unemployment and labor force totals for fiscal year 1977 indicates that in the absence of CETA, the unemployment rate for black and other races would have been about 14.8 percent instead of the actual 13.2 percent observed during fiscal year 1977. This 1.6 percentage points should probably be raised, perhaps by 0.3 or 0.4 percentage points, for fiscal year 1978, allowing for the CETA Title VI expansion and the implementation of the new youth programs.

YOUTH EMPLOYMENT ACT

Question: The Youth Employment and Demonstration Projects Act of 1977, P.L. 95-93, sets aside 22 percent of the amount allocated to each prime sponsor for programs for in-school youth. These funds must be used pursuant to agreements between local prime sponsors and local school districts. Has the Labor Department been working with Health, Education and Welfare, prime sponsors, and local school districts in the implementation and coordination of this provision? How is this being done? Please give some specific examples.

Answer: In December 1977, a technical assistance guide, Consideration and Elements for CETA/LEA Agreements was prepared for dissemination to prime sponsors and regional offices. In the same month, a memorandum of agreement between the Secretaries of Labor and Health, Education and Welfare was drafted creating an interagency panel to monitor and facilitate joint activities and outlining six areas in which the two agencies will work together. The joint activities will include the identification and dissemination of education work model programs, assessment of institutional linkages occurring locally, and development of procedures for awarding academic credit and review of progress in the awarding of academic credit in the Youth Employment and Demonstration Project Act programs.

In December 1977, and January 1978, a series of five workshops for CETA prime sponsors and local education agencies were completed. Approximately 200 persons attended each. The workshops emphasized the sharing of information in the areas of academic credit, work experience programs, career development and the Youth Employment and

Demonstration Project Act legislation. The workshops were sponsored jointly by the Department of Labor and the Department of Health, Education and Welfare.

In addition, regional offices have provided prime sponsors with training and technical assistance in working toward the signing of local education agreements. Further, many prime sponsors have held orientation sessions for the local education agencies in their respective areas to familiarize them with the provisions of the new law and the nature of the youth program design.

PENALTIES FOR MISUSE OF CETA FUNDS

Question: How many instances has the Labor Department imposed penalties by actually withdrawing Federal funding from project sponsors under the Comprehensive Employment and Training Act?

Answer: The information requested is available only at the Regional Office level. The Department has requested each Regional Office Administrator to compile a listing of those instances where penalties have been imposed by withdrawing Federal funding from CETA prime sponsors. Because of the nature of this request, the information cannot be compiled during the short time frame permitted. However, the information will be submitted to the Committee as soon as it is available, which should be within two weeks.

GEARING UP FOR WELFARE REFORM

Question: Since you propose having 1.4 million welfare recipients in public jobs by 1981, why are you not proposing to expand in FY 1979 the currently funded level of 725,000 public service jobs? If Congress rejects your welfare reform proposal, do you nevertheless see the need to double the current level of public service jobs by 1981?

Answer: The 1.4 million jobs estimated for the Better Jobs and Income Program are to be targeted to persons eligible under that program--parents of children 18 or under. These jobs are not intended to deal with problems of aggregate unemployment even though some overlap is inevitable. We propose, instead, to implement several pilot demonstration projects that will be designed to test various aspects of the Administration's program and which will include the creation of special public jobs for eligible participants.

The question of whether or not to expand the level of public service jobs by 1981, in the absence of a welfare reform program, depends on economic conditions during that period.

YOUNG ADULT CONSERVATION CORPS

Question: Last fall, you submitted a supplemental asking for an additional $116 million for the Young Adult Conservation Corps, to raise the total appropriation to $350 million. Now you have with-

drawn that request. Couldn't you effectively spend $350 million for the Young Adult Conservation Corps in fiscal year 1978?

Answer: The Department's request for an additional $116 million for the Young Adult Conservation Corps was based on a judgment that the funds could be expended if they were available for the entire year or for a minimum of three quarters of fiscal year 1978. Given the likelihood that such supplemental funds could not be made available until the third quarter of this fiscal year, we would be unable to expend the full $116 million during this fiscal year.

NATIONAL YOUTH OFFICE STAFFING

Question: Why haven't you been able to complete permanent staffing of your youth office?

Answer: It was decided to fill the new positions through open, competitive merit staffing procedures rather than through lateral reassignments. The new positions were posted on September 6, 1977, but due to the tight labor market, over 1,850 applications were received for the new positions advertised. Therefore, the staffing process is taking an unusually long time. In the interim, we are operating with a temporary task force on detail until March 10, 1978, or until sufficient selections are made to make an orderly transition to a permanent office structure.

Question: How many permanent staff are now on-board and how many jobs remain to be filled?

Answer: The Office of Youth Programs has a full-time permanent ceiling of 119 positions including the Office of Job Corps and Young Adult Conservation Corps, and the Office of Community Youth Employment Programs. Of these, 85 are currently filled and 34 are in the process of being filled through open, competitive merit staffing procedures. These positions refer only to National office staffing.

DISPLACED HOMEMAKERS

Question: What is currently being done under Labor Department programs to help homemakers displaced in their middle years through divorce or widowhood?

Answer: Although displaced homemakers have not been identified nationally as a special target for assistance, a number of CETA sponsors have included this group in programs emphasizing career awareness, nontraditional jobs, and improved employability for women. For example, of the 80 programs funded under Title III in the National Program for Selected Population Segments, 26 are designed specifically to meet women's needs. Service centers targeted directly to displaced homemakers are currently being operated by a few sponsors, including the Fort Wayne, Indiana consortium; the Montgomery, Alabama consortium; and the Independence, Missouri, Manpower Resources Office.

Question: Do you feel that additional authorizing legislation is necessary, or could funds simply be earmarked under the existing Comprehensive Employment and Training Act for displaced homemaker programs?

Answer: The Department has included displaced homemakers in the proposal for CETA reauthorization. There are, however, no specific new projects under active consideration for this group. The sponsors would be the prime operatives of such projects at their discretion.

MINORITIES AND WOMEN IN NEW OCCUPATIONS

Question: Do you have a system established to alert the Department to occupations that are not increasing in minority and women representation?

Answer: Although the policy of training and placement of women and minorities in occupations in which they are under-represented is encouraged on the program operating level, there is no system established to formally track the progress of these groups by occupation on a regional or national level.

Question: In programs supported at least partly by Federal funds, what is the percentage of minority and women trainees who successfully complete the training programs and become employed, skilled workers?

Answer: Information on the placement of women and minorities by type of skilled occupation is not available. However, information is available on general placement into unsubsidized employment without regard to the skill level of the job in which the participant is placed. In the Comprehensive Employment and Training Act program under the combined titles I, II and VI for fiscal year 1977, 43.1 percent of participants who went through the programs and were placed into unsubsidized jobs were women. Minority group members constituted 54.5 percent of those who were placed into unsubsidized employment. Minority group members included blacks, Spanish Americans, American Indians, and "other" minority groups.

Question: Do you find a particularly high dropout rate for minorities and women in your skilled training programs? If you do, does the Department have any plans on how to reduce this dropout rate?

Answer: Information on the dropout rate of women and minorities by type of skill training or even by general training activity is not available. For the Comprehensive Employment and Training Act (CETA) program under titles I, II, and VI, a special effort will be underway to rectify deficiencies in the reporting system for these titles. The feasibility of providing dropout rates for characteristics data to include women and minorities will be studied. If obtaining dropout rates is determined as feasible, the data could be available the latter part of fiscal year 1978.

FORWARD FUNDING

Question: The National Council on Employment Policy has strongly urged that programs under the Comprehensive Employment and Training Act, including public service jobs, be forward funded and this year, HEW proposed to forward fund vocational rehabilitation programs. Why are you asking that forward funding be eliminated for public service jobs?

Answer: The Department feels that there is a difference in basic approaches in program funding for training and development programs (where major program design questions revolve to a large degree around the level of funding) and economic stimulus programs of public service employment which are designed to respond to changing levels of need in the economy. The Department respects the committee's and Dr. Rivlin's work in this area, but believes that the primary concern of the government should be that the system of temporary employment assistance responds efficiently to fluctuation in the national unemployment rate.

Question: What would be wrong with a supplemental to forward fund public service jobs 3 to 6 months into Fiscal Year 1979, particularly since the Congressional Budget ceiling sets aside $3.8 billion for this purpose?

Answer: The Department believes forward funding into 1979 is not necessary for two reasons. First, sufficient carryover funds are anticipated to be available in the beginning of fiscal year 1979, and second, the program level is expected to remain the same for 1979 as it is in 1978. Therefore, the two main purposes which necessitate forward funding are addressed, i.e., adequate resources at the beginning of a new fiscal year and planning.

Question: Without forward funding, isn't there a tendency for local project sponsors to start hoarding money due to funding uncertainties, thus cutting back on job responsibilities.

Answer: Although the tendency is there, the fact that prime sponsors will know early on that the Administration clearly wishes to continue the program at its current level should substantially reduce that tendency.

Question: Wouldn't better program planning result if project sponsors knew in advance how much money to expect for the following year?

Answer: Forward funding does not necessarily guarantee prime sponsors a certain dollar level, since allocations are adjusted from year to year based on economic data. It does aid in planning, however, when there are substantial increases or decreases in overall program size between program years.

OMB REQUEST FOR NEW YOUTH PROGRAMS

Question: What did you originally request of OMB for youth programs?

Answer: The request to the Office of Management and Budget was for sufficient funds to provide 236,600 slots in Fiscal Year 1979. The slot levels for the four new youth programs are as follows:

Young Adult Conservation Corps	33,300
Youth Community Conservation and Improvement Projects	22,600
Youth Incentive Entitlement Pilot Projects	31,600
Youth Employment and Training Programs	149,100
	236,600

APPRENTICESHIP INITIATIVES

Question: What are you doing to increase the volume and coverage of apprenticeship and similar programs to enlarge the supply of highly-skilled workers?

Answer: The Bureau of Apprenticeship and Training staff will continue the initiatives developed under the economic stimulus program. Particular emphasis will be focused on the apprenticeship innovations developed in the health-medical, mining and energy fields. Special efforts will be directed toward the placement of women in non-traditional jobs as well as accelerating opportunities for minorities and veterans in skilled trades.

INTERDEPARTMENTAL COOPERATION

Question: How many application forms and reporting forms do you use in common with other agencies in programs that target similar population groups?

Answer: All Comprehensive Employment and Training Act prime sponsors utilize the SF-424, Application for Federal Assistance. Generally, common reporting forms are not utilized since particular data concerns are sufficiently different to make uniformity difficult.

Question: Have you tried working with other agencies in identifying the best locations for your programs?

Answer: Cooperation with other agencies regarding program plans and site selections has been substantial. In the area of youth programs, some specific examples of interdepartmental coordination include the following:

(1) Locations for the Young Adult Conservation Corps projects and camps were a matter of coordination and agreement among the Departments of Agriculture, Interior, and Labor.

(2) The Job Corps staff is working closely with the Department of Defense personnel to identify surplus military facilities which may be used as sites for new Job Corps centers.

(3) An agreement has been reached with the Department of Transportation for the operation of community improvement projects with State-owned railroads.

(4) ACTION will, in cooperation with a locally based nonprofit organization, operate a community service

internship program in an urban area with high unemployment among minority youth.

(5) A career intern program is to be operated by Opportunity Industrialization Centers under an interagency agreement between the Departments of Labor and Health, Education, and Welfare.

The Departments of Labor and Health, Education, and Welfare also cooperate in selecting locations for the Work Incentive program and the Senior Community Service Employment Program.

USE OF DISCRETIONARY FUNDS

Question: Please provide a list of all the projects funded with discretionary funds under the Comprehensive Employment and Training Act in Fiscal Year 1977, with amounts for each, and grand total. Please indicate when each of these projects was first funded by the Labor Department and whether funding is being continued through Fiscal Year 1978.

Answer:

Projects Funded With Discretionary Funds in Fiscal Year 1977

	Fiscal Year 1977 Actual Obligations	Project to be Continued in Fiscal Year 1978	Fiscal Year When First Funded
Consortia Incentives	$44,259,000	Yes	1975
Rural CEPS	8,651,000	Yes	1975
Prime Sponsor Hold Harmless	4,680,000	Yes	1975
Trade Act Activities	4,327,000	Yes	1971
Evaluation of CETA Decentralized Program	5,000,000	Yes	1975
Departmental Audits of Prime Sponsors	5,324,000	Yes	1971
Offender Programs	208,000	Yes	1971
Supported Employment Program	5,000,000	Yes	1975
Emergency Weather and Fuel Crisis	9,459,000	No	1977
Disabled Veterans Outreach Program	13,780,000	Yes	1977
National Commission on Employment and Unemployment Statistics	188,000	Yes	1977
Departmental R.D. & E. Funds	419,000	Yes	1976
Occupational Lists	97,000	No	1977
Job Search Information	106,000	Yes	1977
Employment Security Agencies Summer Youth Program	412,000	Yes	1977
Job Service Improvement Program	188,000	Yes	1977
Employment and Work Demonstration Project	4,981,000	Yes	1977
Economic Development Demonstration Projects	1,285,000	Yes	1977
Apprenticeship Initiatives	11,276,000	Yes	1977
Migrant/Indian Court Case	21,600,000	No	1977
Migrant Initiatives	3,660,000	Yes	1977
Jobs for Elderly (Title X Projects)	10,500,000	Yes	1977
Inner City Summer Youth Program	20,000,000	No	1977
Minority Group Skill Training	38,146,000	Yes	1971
Promotion and Development	28,587,000	Yes	1971
Community Based Organizations	7,408,000	Yes	1971
Current Population Survey	3,700,000	No	1974
School to Work Program	1,935,000	Yes	1977
Career Information Service	1,851,000	Yes	1975
Special Emphasis (Bonding and Planning Grants)	174,000	Yes	1975
Job Corps Projects	2,931,000	No	1976
Emergency Flood Relief	1,705,000	No	1977
Employment Service/Prime Sponsor Linkage Demonstration Projects	1,424,000	No	1977
Continuous Wage and Benefit History Study	1,818,000	Yes	1977

Research Contracts with Public Interest Groups	1,092,000	Yes	1976
Service Integration Project	1,000,000	No	1977
Selected Population Segments	4,067,000	No	1976
Miscellaneous Projects	5,697,000	No	1976
Total	276,935,000		

Note: Projects funded prior to enactments of the Comprehensive Employment and Training Act in 1973 were funded under the authority of the Manpower Development and Training Act and/or the Economic Opportunity Act.

ROLE IN LABOR-MANAGEMENT DISPUTES

Question: Over the years, there has been the temptation for the Labor Secretary to intervene in labor-management disputes which should be the province of the Federal Mediation and Conciliation Service. How do you view your role in resolving labor-management disputes, and how are your relations with the Mediation Service?

Answer: As you know, the Department's position is that this administration does not intend to get into the labor-management disputes unless it becomes clear that the disputes cannot be resolved through normal procedures and allowing the disputes to continue would have an adverse effect on national interests. The Federal Mediation and Conciliation Service and the National Mediation Board are independent agencies which are charged with that responsibility. The Department has talked to the Director of the FMCS and the members of the NMB and assured them of its desire to stay out of the mediation business. They have agreed to keep the Department posted on developments. The Department's relationship with both agencies is excellent.

SHELTERED WORKSHOP STUDY - JUNE 1977

Question: In June 1977, there was a Sheltered Workshop Study completed under the auspices of the Employment and Training Administration and the Employment Standards Administration. Why wasn't this report done by the Bureau of Labor Statistics?

Answer: The study was done by the Employment Standards Administration (ESA) primarily because ESA possessed the background and the expertise with respect to workshops. Under the Fair Labor Standards Act, special minimum wage certification for handicapped workers with impaired productivity is the responsibility of ESA and has been administered by the Wage and Hour Division since the law was enacted in 1938. The workshop field is a highly specialized area and the information collected from the workshops for the study required review by knowledgeable persons to assure the accuracy, consistency and completeness of the data. In addition, ESA had the background to design the questionaire and the data to provide the universe. Also, there is an Advisory Committee on Sheltered Workshops which provided guidance during the course of the study.

Question: The June 1977 Sheltered Workshop Study indicated that Sheltered Workshops were underutilized. What measures have been taken to correct that?

Answer: The Employment and Training Administration had been utilizing sheltered workshops for training of disadvantaged persons to some extent prior to and during the study and is currently exploring the desirability of increasing such utilization.

Question: The June 1977 Sheltered Workshop Study indicated that the separation of work activities center clients from regulatory program workshop clients did not produce significant changes in services. What alternative means would you suggest, or corrective

amendments to the Fair Labor Standards Act, to produce a significant change in services?

Answer: The Congress in the 1966 Amendments to the Fair Labor Standards Act legislated the separation of the work activities center from the regular program workshop in order to provide improved wage protection for the better producers without depriving the very severely handicapped of the opportunity for sheltered employment. There is no indication that a significant change in service provided was contemplated as a result of this legislation. The study results showed that the workshops generally were satisfied with the separation. There are no suggestions for corrective amendments at this time but a study of the matter will continue.

Question: What steps have been taken to help handicapped workers gain effective collective bargaining with their employers?

Answer: The Department does not have authority with respect to collective bargaining in sheltered workshops. The National Labor Relations Board in a recent case involving a sheltered workshop did not accept jurisdiction because of the unique employer-employee relationship in sheltered employment.

Question: Are any Sheltered Workshops, that act as supplemental or complementary programs to schools, receiving any funds from education sources?

Answer: The Department does not have authority in the matter of funding workshops receive from educational sources and have no information on the subject. We assume there is a varied pattern across the country depending on the arrangement worked out by the local school district and the workshop.

Question: How much did the Sheltered Workshop Study - June 1977 cost?

Answer: The information follows:

FY 1974 -	Sheltered Workshop Study (funded by Employment and Training Administration)	$ 266,375
FY 1975 -	Consultant Antonio Suazo	$ 5,152
	Automated Data Processing	$ 120,000
FY 1976 -	Consultant Antonio Suazo	$ 4,048
	Consultant Claude Whitehead	$ 10,944
	Sheltered Workshop Study (Census Bureau)	$ 190,000
Transition Quarter		
Sheltered Workshop Study (Census Bureau)		$ 25,000
FY 1977 -	Consultant Claude Whitehead	$ 11,628
	Sheltered Workshop Study	$ 25,000
	Printing Cost	$ 19,500
Total		$ 667,647

Question: Were there any studies similar to the June 1977 Sheltered Workshop Study done by HEW?

Answer: A similar study was done by Greenleigh Associates, Inc., for the Department of Health Education and Welfare (HEW) in 1975. The Rehabiliation Act of 1973 mandated a study on the role of the sheltered workshops in the rehabilitation of the severely handicapped. At the time this legislation was enacted the Congress was aware that the Department of Labor had already begun a study of workshops. HEW was approached about making the study a joint DOL-HEW study but felt that in view of the legislative mandate it should do an independent study.

THE PRESIDENT'S OSHA TASK FORCE

Question: What is the status of the President's special OSHA Task Force which is studying ways to "improve" OSHA by eliminating standards and tying it with the Workmen's Compensation Program?

Answer: Formation of the Interagency Task Force on Workplace Safety and Health began with President Carter's memorandum of last August directing creation of a joint group to explore innovative, effective ways of strengthening the present Federal job safety and health efforts. The purpose of the Task Force is, therefore, to develop additional governmental actions which support and complement OSHA's safety compliance programs. These may include recommendations concerning workers' compensation programs. The Task Force consists of 11 staff members detailed from the constituent agencies, a resident core staff of expert resource people within those 6 agencies, and 7 expert consultants. It formally began work with a 2 day conference December 15-16; has produced a 150 page work plan detailing relevant issues and possible solutions. Interim recommendations for the short-term actions are scheduled for April 30. OSHA intends to continue to provide full cooperation and assistance to the work of the Task Force.

JURISDICTIONAL OVERLAP BETWEEN OSHA AND OTHER AGENCIES

Question: What schemes have you devised to share research and conduct joint inspections by the Environmental Protection Agency, the Consumer Product Safety Commission, the Food and Drug Administration, and OSHA.

Answer: OSHA, EPA, CPSC and FDA have developed and begun implementation plans in both of these areas and have formalized an interagency agreement utilizing numerous work groups. The plan of these four agencies to share research is focused on eliminating duplication and identifying gaps in existing projects, planning coordinated budget initiatives, and more effectively using non-regulatory decision-making. The agencies have already identified 12 common regulatory research needs. They have also identified and described current research activities common to at least three of the four agencies, grouped by common regulatory need and by research area. The Department of Health, Education and Welfare research institutes are providing information on the research they are doing that falls into the 12 research need areas. The Research

Planning Work Group is currently developing recommendations for program and budget redirections.

Some joint inspections by two or more agencies are already being conducted in a number of regions. In addition, a Compliance and Enforcement Work Group is drafting a nation-wide program for joint inspections where feasible and appropriate. Recommendations for implementation of this approach will be completed in September 1978. The objectives are two-fold: to utilize agency resources in a more efficient manner, and, more importantly, to reduce the burden on individual employers covered by the various agency programs. An example of the benefits of such a coordinated approach to resolving workplace issues impacted by more than a single Federal program was the recent joint OSHA-EPA response to a series of grain elevator explosions.

Question: To what extent is OSHA interagency cooperation merely superficial?

Answer: OSHA's current cooperation with the Environmental Protection Agency, the Consumer Product Safety Commission and the Food and Drug Administration is far from superficial. This interagency effort was created personally by the four agency heads as a result of a series of informal meetings. Now called the Interagency Regulatory Liaison Group (IRLG) it continues to receive their personal attention and support. The four agency heads meet frequently. All personnel in the four agencies have been directed to give the coordination effort top priority and key staff members in each agency are directly involved in the various aspects of IRLG cooperation. In addition to representatives on a steering committee, each agency has representatives on eight work groups.

The heads of a number of work areas in the agencies have also begun meeting together to coordinate their efforts. These include the agency field coordinators, general counsels, and planning and budget personnel. Initial findings and recommendations of several work groups will be published in the Federal Register within the next few weeks and requests for public comment will be solicited.

The IRLG effort is not the only area reflecting OSHA's depth of commitment to interagency cooperation. After extensive preliminary discussions with the U.S. Coast Guard, OSHA and the Coast Guard have signed an agreement to form a task force which will improve a number of interagency concerns.

Question: To what extent does interagency cooperation have the potential for cutting costs in the various agencies and speeding up the process of issuing standards, eliminating hazards, and protecting the population?

Answer: Interagency cooperation does have significant potential for avoiding duplication and for achieving a coordinated Federal health regulatory effort that allows more effective use of limited agency resources and expertise. Some improvements have already been achieved by the Interagency Regulatory Liaison Group, such as the new four-agency consumer information center which opened in San Francisco last December. The regulatory development and enforce-

ment process in the agencies has also benefited, as in the recent sharing of data and individual expertise on dibromochloropropane (DBCP) that allowed rapid, coordinated regulatory action by OSHA, the Environmental Protection Agency and the Food and Drug Administration.

While such interagency cooperation can improve both the effectiveness and efficiency of agency operations, and reduce the burden on the regulated industries, it also places some additional demands on agency resources. In the long term the four agencies can be significantly more effective in administering and coordinating their statutes, but staff resources must be committed. While new systems are being developed and set in place, resources are needed both to plan and test these systems and at least temporarily, to maintain the old systems. For example, the use of a common data bank will facilitate the various regulatory processes, but this data bank must first be developed and set in place. The four IRLG agencies are working now to develop common identification codes for specific chemicals, establishment sites, products and uses. Having high quality data can reduce the length of hearings and help prevent court contests of regulatory actions, but this requires the development of common, consistent or compatible testing standards and guidelines, risk assessment procedures and epidemiological practices and procedures.

OSHA STATISTICS AND RECORDS

Question: A number of critics of the OSHA Administration have expressed concern that OSHA goes "Whole Hog" into enforcing specific standards when it has no real knowledge about which standards, when not complied with, cause the most fatalities, injuries, and illnesses. When are you going to start developing information on the relationship between standards violated and resultant accidents, injuries, illnesses, and fatalities?

Answer: OSHA has several efforts underway to develop and analyze occupational injury and illness data. The agency is compiling information on the causes of accidents identified during its investigations of workplace fatalities and serious injuries. OSHA Area Directors report monthly the causative factors of fatalities and multiple hospitalization incidents. From the data the Agency intends to establish accident causal information for each Standard Industrial Classification. This can be used to direct enforcement resources, assign priorities for standards development, and inform OSHA's training and educational efforts.

Using these fatality/catastrophe reports and "First Reports of Injury" from several State Workers' Compensation programs, OSHA is now working on a study to determine the specific reasons for accidents caused by machines.

The Agency is experimenting with a hazard analysis and program evaluation system to identify the most significant safety and health hazards in specific industries, and to determine which enforcement, standard-setting, or educational efforts could best address the problems. This system, first employed for the foundry industry, uses workers' compensation data and injury/illness data gathered by OSHA to discover the events in an accident sequence and the relationship of each object, activity or condition to an injury

or illness occurrence. The system, if proven to be useful, will be extended to other high-hazard industries. OSHA did not previously have the in-house staff capability to perform this kind of sophisticated analytical work.

OSHA has also received Federal civilian worker injury and illness data from the Department's Office of Workers' Compensation Programs. An analysis is underway to determine whether cause/effect relationships can be determined from these data. Information of this type can be used to better plan the Federal Agency program and can be integrated into private sector studies.

It should be noted that all new OSHA standards are derived through a statutory process which includes ample opportunity for public comment. The relevance of a standard proposal to actual control and elimination of workplace hazards is thoroughly explored throughout the promulgation process. With respect to health standards covering vinyl chloride, benzene, or acrylonitrile, there is a very clear relation between exposure and the onset of disease. With regard to standards promulgated earlier, that is, adoption of the industry "concensus standards," OSHA is reviewing and eliminating those standards for which clear cause and effect relationships cannot be reaffirmed.

SENATOR DOLE AMENDMENT

Question: In order for an OSHA inspector to determine if there is a violation, he must know what constitutes compliance. Why shouldn't inspectors, therefore, be permitted to provide on-the-spot consultation services with employers before fines are issued for citations, as proposed last year by Senator Dole? How much will it cost to implement the Dole recommendation? What other problems are there in instituting the Dole amendment?

Answer: OSHA encourages States to provide on-site consultation and will have consultation services available upon request in all States and territories by July 1, 1978. The Department opposes the Dole amendment, however.

If this amendment were enacted OSHA would be forced to conduct "follow-up" inspections to determine compliance with violations of an other-than-serious nature, a procedure now followed only for serious violations. This would result in a significant decrease in OSHA's total workplace coverage.

The Dole amendment would have resulted in OSHA spending significant funds to concentrate on relatively minor infractions rather than focusing on the most serious threats to worker safety and health. This contravenes the Agency's initiative to redirect its efforts away from minor violations--an initiative that has received widespread approval. If OSHA were to continue concentrating on serious violations as well as implementing the Dole amendment, it would require approximately double the current compliance resources.

A preferable alternative is the course OSHA has adopted: consultation from State and private sector sources through which consultants identify workplace hazards and, to the extent possible, suggest means of hazard elimination and control. Additional sources of assistance are also suggested by the consultant, if known, such

as specific engineering expertise or medical advice. Also provided are a variety of consultative and informational assistance during an OSHA inspection and even subsequent to the issuance of a citation when the citation has become a final order of the Occupational Safety and Health Review Commission.
OSHA compliance officers have been instructed to provide the maximum amount of assistance possible under the OSHA Act during the workplace inspection and at the closing conference following the inspection. After an inspection, the employer may also request an informal conference with the local Area Director to discuss the results and possible methods for abating any hazards discovered.

The Dole amendment would cause a decrease in the use of these sources of assistance. It would provide a disincentive for voluntary compliance with the OSH Act as employers might await an OSHA inspection, gambling on being cited solely for other-than-serious violations instead of taking steps to correct these workplace conditions.

LOCAL AREA UNEMPLOYMENT STATISTICS

Question: While the proposed Bureau of Labor Statistics improvements are geared to give us a more accurate unemployment rate for States and local areas, to what extent will we be able to get disaggregated State data from the proposed Current Population Survey sample?

Answer: The present Current Population Survey sample supplies selected demographic characteristics for all States and a few metropolitan areas such as age, sex, race, major occupational group, duration of unemployment and full and part-time status. Not all of these characteristics, however, are of publishable quality in every State. These data are currently published annually.

The expanded sample will supply additional demographic detail on an annual basis and will improve existing demographic data to allow some publication on a semi-annual or quarterly basis. It is not possible right now, however, to identify the specific demographic detail that will become available, because to do so requires a careful analysis of the samples in each State and area and the Bureau of the Census has not yet completed this sample design.

Question: Given the high number of unemployed individuals, would you think it possible and cost efficient to train some of these persons to be survey takers to enable the Bureau of Labor Statistics to get better local area data?

Answer: The possibility of alleviating unemployment through a special program to train the jobless as additional interviewers whose work would concurrently improve local area data is limited, if not altogether impractical. In the first place, any problems associated with measuring unemployment in local areas do not stem from the lack of trained enumerators. (The primary problems relate to limitations of sample size and coverage, which, in turn, are a function of the extent of monies available.) Secondly, the position of a Census Bureau enumerator is generally part-time and, thus, would not be suitable for the majority of the unemployed who want full-time work. Third, the requirement that the interviewer have a residence telephone and an automobile might also be a barrier to many of the unem-

ployed. Fourth, it is important to recognize that the position of enumerator is already being used as a stepingstone to the labor force by many individuals, particularly women returning to work after their children are settled in school. About a quarter of the household survey interviewers leave the staff each year, many to enter other employment, and their replacements often come from the ranks of unemployed or persons entering or re-entering the labor force.

Question: Do you foresee that the impact of changing to new State and local unemployment data will create serious disruptions in localities due to sudden loss of Federal funding tied to the unemployment rate?

Answer: There may be some disruptions in allocations to some areas, but the timing of these changes is such as to minimize the financial impact on most areas. This softening of the effect relates to the present status of the allocations process: (1) CETA: most of CETA funds for this year have already been allocated. No additional funds will be available until a new CETA bill is passed, probably in late 1978. But even so, CETA Title I now has a 90 percent hold-harmless clause built into the law to minimize losses of funds due to changes in the estimates, and (2) PWEA: all funds under the local public works portion of this Act have already been earmarked and the revenue sharing portion has only 2 more quarters of funding.

Question: What precautions might you suggest to phase-in use of the State and local unemployment data to minimize possible disruptions of existing Federal programs?

Answer: We prefer to have a single period for changes. Traditionally, revisions of data and changes in procedures have been introduced in January, which is concurrent with the annual benchmarking which revises the historical data. It would not be wise either statistically or politically to have continual changes made.

Question: What are your plans to adequately provide the opportunity for public review and comment before implementing new procedures for estimating unemployment levels within various political subdivisions?

Answer: The changes in the estimating methodology were introduced with the January data. The new procedures were given to the State employment security agencies in November, although the broad outlines of procedures were known to all the States several months earlier. The new procedures were also presented to the annual meeting of all research chiefs of the State employment security agencies in October and were discussed at two regular meetings of the Labor Market Information Committee of the Interstate Conference of Employment Security Agencies. In addition, training sessions were held for all of the State staffs in November and December. We also met with representatives of the National League of Cities, National Association of Counties and the National Governors' Conference to discuss the changes prior to their implementation.

Any future changes in procedures would be handled in about the same way as far as we know now .

NUMBER OF WORKERS AND COST

Question: What is the projected cost in terms of unemployment benefit payments for the fiscal year 1979 compared to fiscal year 1978?

Answer: It is estimated that for both fiscal years, the cash benefit payments will total $190 million annually.

Question: How many workers, in what types of industries, do you project will become eligible for trade adjustment assistance in fiscal year 1979?

Answer: The Department estimates that between 100,000 and 125,000 workers will become eligible for trade adjustment assistance in fiscal year 1979. These workers will be from the same spectrum of industries from which workers are currently petitioning including primarily the apparel, shoe, steel, electronics, and auto industries.

Question: How many workers are currently receiving trade adjustment assistance?

Answer: Through November 1977, 239,000 workers had received trade readjustment allowances since the beginning of the Trade Act program in April 1975. The Department does not have specific information on those currently receiving benefits, but would estimate that between 20 percent and 25 percent of the cumulative total represent active claims.

Question: What is the average age of workers receiving unemployment benefits under the trade adjustment assistance program and what percent of them are receiving retraining and employment services?

Answer: At the present time, there is no good information concerning the age and other characteristics of the workers in the trade adjustment assistance program. Data is being collected and within the next year, statistics will be available.

It has been estimated that about 75 percent of the workers covered by the program are back at work by the time they have the opportunity to apply for benefits. These workers would not ordinarily be expected to apply for employment services.

About three percent or 6,500 workers have received training under the program; .2 percent or 500 workers have received job search allowances; .1 percent or 300 workers have received relocation expenses; two percent or 5,000 workers have been placed in jobs; and thousands of other workers have received counseling and other employment services.

ZERO-BASED BUDGETING

Question: How would you assess the strengths and weaknesses of the Zero-Based Budgeting process you went through in preparing your Fiscal Year 1979 budget?

Answer: The major strengths were that managers were provided with organizational detail in greater depth than in previous years, thus allowing greater program insights. The emphasis placed on missions, goals and objectives in the decision making process allowed reviewing officials an opportunity to compare resource requests, workload data, and other accomplishments with their future plans. In this way, the Department's priority determinations to carry out mission objectives were easier to identify and rank. The principal weakness would be the large amount of paperwork compiled. Further, the formats require redesigning to provide for additional data needs. In developing the 1980 ZBB submission, we look forward to a much better controlled and useful product.

Question: What types of programs seem to fare best and worst under ZBB?

Answer: The process appeared to work the same for all of the Department's programs, since they are based on changing National priorities.

Question: What would you suggest to improve the ZBB process for Fiscal Year 1979?

Answer: Improvements would include beginning the process earlier, establishing clear policy guidance, and automating the support process.

SUBCOMMITTEE RECESS

Senator EAGLETON. Thank you very much, Mr. Secretary. We will recess until 2 p.m. with Secretary Califano.

[Whereupon, at 12:40 p.m., the subcommittee was recessed, to reconvene at 3 p.m. Friday, February 3.]

DEPARTMENTS OF LABOR AND HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1979

FRIDAY, FEBRUARY 3, 1978

U. S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D. C.

The subcommittee met at 3:10 pm., in room 1223, Everett McKinley Dirksen Office Building, Hon. Thomas F. Eagleton presiding.
Present: Senator Eagleton.

DEPARTMENT OF LABOR

BUREAU OF LABOR STATISTICS

STATEMENT OF JULIUS SHISKIN, COMMISSIONER

ACCOMPANIED BY:

PAUL G. BECKER, CHIEF FOR PLANNING AND FINANCIAL MANAGEMENT
W. JOHN LAYNG, ASSISTANT COMMISSIONER FOR PRICES AND LIVING CONDITIONS
JANET L. NORWOOD, DEPUTY COMMISSIONER
NORMAN J. SAMUELS, ASSISTANT COMMISSIONER FOR WAGES AND INDUSTRIAL RELATIONS.
DUDLEY E. YOUNG, ASSISTANT COMMISSIONER FOR EMPLOYMENT STRUCTURE AND TRENDS
WILLIAM R. REISE, COMPTROLLER FOR THE DEPARTMENT
CHARLES E. PUGH, DIRECTOR OF THE OFFICE OF BUDGET

OPENING REMARKS

Senator EAGLETON. Good afternoon, ladies and gentlemen.

The Subcommittee on Labor, HEW and Related Agencies will continue its hearings.

Today we will hear from the Bureau of Labor Statistics.

Mr. SHISKIN. Yes, sir.

Senator EAGLETON. Mr. Shiskin, you have a very fine reputation and a much deserved one. We are delighted to have you. We will start with your statement.

Mr. SHISKIN. Thank you. I am very glad to be here to have this opportunity to explain our budget proposals.

I do have a statement which I have submitted for the record.

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There is a lot of business for the committee today, so I will summarize what I have to say very quickly. We are asking for a net increase of approximately $8,700,000, which can be divided into three parts. First, there are mandatories, which amount to approximately $9 million. Second, we have proposed program increases of slightly less than $6 million. Finally, we are phasing out several programs which add up to about $6 million. Thus, the program increases just about equal the programs we are phasing out.

Let me say a few words about the new program requests.

IMPROVEMENTS IN PRICE STATISTICS

We have a momentous event ahead of us later this month. After many years of effort, we will be issuing two new consumer price indexes on February 27. That has been a very major effort and it has cost a great deal of money. The Congress has been very supportive of this effort, and we are finally getting it done. There are some loose ends, and we need more money to tie them up in order to improve our computer program to make it operate more effectively, and to produce data more quickly. In addition these funds will cover our computer costs which are running above what we had estimated.

We will now turn the efforts of our skilled staff, which has been largely preoccupied with the Consumer Price Index revision, to improving what has previously been referred to as the Wholesale Price Index. The Wholesale Price Index has been subjected to very vigorous criticism, mainly, though not exclusively, on the ground that it duplicates and triplicates some price increases. For example, if you have an increase in the price of pig iron, it ripples through the system and gets counted many times.

We have started a program which will eliminate that kind of duplication in the system, but there are also many other problems such as the use of many list prices rather than transaction prices, confusion of shipments and orders price data, and so on.

We are going to turn the attention of our skilled staff to resolving these problems. Although we have done some work in the past, we haven't been able to do much. But we do plan to move ahead in the next few years, and we are asking for $1,860,000 to expand this work on the Wholesale Price Index.

In the meantime, we are trying to get the press and others to focus their attention on our Finished Goods Index, which, while it isn't as broad as the total WPI, does not have the limitation that it contains duplication.

IMPROVEMENTS IN LOCAL AREA UNEMPLOYMENT STATISTICS

Our second program item and the largest in terms of dollars, is an effort to improve further the local area unemployment statistics.

We have had a very serious problem in obtaining local area unemployment statistics that are of the quality that one would expect when so much money, about $17 billion last year, is allocated by the Congress on the basis of these numbers. The numbers are deficient now so we are moving ahead vigorously.

Senator EAGLETON. How many dollars did you say was allocated?

Mr. SHISKIN. $17 billion was allocated in 1977 on a basis of the unemployment rates for States and local areas, a tremendous amount of money.

Senator EAGLETON. Yes.

Mr. SHISKIN. We are asking the Congress to shift the allocation programs that are involved, and there are three of them, to a quarterly basis instead of monthly.

We think the quarterly program will not only yield more reliable figures to serve as the basis for the allocation, but it will be less expensive, and we can phase in the whole program much more quickly. We are asking for $3,005,000 for that.

CPI COMPUTER SYSTEM

As I mentioned earlier, we are also asking for $840,000 to revise our computer program, so we can produce some data that the present program does not yield and to get the CPI out faster each month. We normally get the CPI out on about the 20th of the month. We have now made a commitment to be getting the new indexes out by the 27th of each month, so we will be a week behind the present schedule.

To accomplish this, we need a better computer program since, huge amounts of money are distributed on the basis of the CPI, we think this is a very reasonable request.

INDUSTRY CODING

Finally, the records which the State employment security agencies keep for us classify the individual business establishments by industry. In the past, we have had periodic, massive revisions of those industry codes. We are trying to put that program on an annual basis, so that each year we will review a portion of the industries. This will be a more efficient program, and we are asking for $280,000 to accomplish this.

PROGRAM REDUCTIONS

To offset these increases, we are proposing several program reductions. We are phasing out the CPI revision for the most part. In addition, we are phasing out the huge computer systems redesign program we have had under way because we are now off the old computer. Finally we are phasing out the huge periodic standard industrial classification program.

So the program change about balances out.

That is all I will say, unless you want me to expand.

PUBLICIZING STATISTICAL CHANGES

Senator EAGLETON. Respond to this, if you will, Mr. Shiskin. Whenever the Government changes its data collection and data, the data reporting systems, some people suspect that it is done to hide something, or to give a more favorable picture than is otherwise warranted, or maybe even, on occasions, a more unfavorable picture than is sometimes warranted.

How do we convince the public that whatever changes we are making in the data collection and reporting system is not being

rigged or tilted, or what have you. I know you are a career professional, and many of our staff are, as well. But, how do we assure the public that the changes we are making are in the interest of more reputable, more manageable statistics, and not some kind of a tilt or coverup, or what have you.

Mr. SHISKIN. To begin with, we don't make any significant changes in our programs without a very broad consensus of users supporting them. For example, we have been discussing revisions of the Consumer Price Index since the early 1960's when a commission made a report on what changes ought to be made. We have been consulting over this long period of time with the business community, the labor community, and the academic community.

Furthermore, we really don't make significant changes in our programs without first having a commission of distinguished citizens appointed to advise us. For example, the President has just nominated a new commission to make a review of unemployment statistics. That Commission will soon get under way now that the President has made the nominations.

But I think the most important thing of all, as far as BLS is concerned, is that we are a very open agency. We tell everybody everything we know. When we make mistakes, we announce them. I think that is what you have to do. Others will have to judge how successful that is, but that's been our policy.

Senator EAGLETON. Refresh my memory, when the unemployment figure dropped from, what was it, 6.9 to 6.4?

Mr. SHISKIN. Yes.

Senator EAGLETON. What did I read somewhere, that the drop really wasn't all that great, or the improvement wasn't all that vast, because of a quirk in the figures or what have you. I read something somewhere and I am groping around for it.

Mr. SHISKIN. We issued that figure a month ago today. We issued another today, by the way, and the figure for January is 6.3 percent. So it came down a little bit. The previous figures had shown a large drop from 6.9 in November to 6.4 in December. People thought that didn't look right.

At the same time, however, we issued a revision of the data for the full year 1977, based on new seasonal figures. We were able to update our seasonal factors and our seasonally adjusted data. The revised figures showed a more or less steady decline in unemployment throughout 1977.

The question frequently asked in the last 3 or 4 months of 1977 was: "How can you have such a strong performance in employment without making a dent on the unemployment figures?" At the time, we struggled with that question and we never came up with a good answer. But we now know the answer. There was a drop in the unemployment figures, but we didn't know it earlier.

When we revised the figures with additional information, they showed a pretty steady decline. A 6.4 rate coming at the end of a year of more or less steady decline, is a credible figure. A 6.4 rate coming as a big bump after a high November figure is less credible. The revised November figure was 6.7.

Now we have one more figure, 6.3 for January, which tends to confirm the December figure. I can't tell you what many other

economists will say after they digest today's figures, but we think that the figures for 1977, and the December figure are pretty good.

I wouldn't say the unemployment rate is exactly 6.4, but I will bet it is between 6.3 and 6.5; 6.3, 6.4, 6.5. We have tested it exhaustively—we have many different kinds of tests we make. We have a very large survey and our survey this month was raised by 9,000 households. We get the same results, so we are confident of them.

PUBLICIZING NEW STATISTICAL SERIES

Senator EAGLETON. What kind of missionary work do you do, to try to sell a new statistic or method to the, say, TV networks or wire services? How do you impress that figure-gathering system x is really a better indicator of what is going on, whether it is in a wholesale area, or unemployment, or Consumer Price Index, or what have you.

Mr. SHISKIN. As I said earlier, we spend a lot of time with the professional people, academic people, and others explaining what we propose to do before we make decisions to do it, and we often revise our plans on the basis of their advice. We spend a lot of time with the labor and business representatives, so that when we are ready to do something, we have a lot of support for it.

We don't make large changes without a lot of support. We recently introduced a measure which has been subjected to some criticism: the employment-population ratio. In this case, while we introduced a new figure—the employment-population ratio—which has been subjected to some criticism, we took a survey of users of the data before we introduced it. And we found that, overwhelmingly, they supported the introduction of that measure into our releases.

At the same time as we carry on these conversations with the labor groups, the business groups and the academic groups, we meet with the press. I have never refused a call from the press, and I have instructed my staff to take the same position. I think I have very good relations with the press. I spend a lot of my time with the press. And a lot of the reporters today, Senator, are very skillful economists. Several of them are Ph. D.'s in economics, and we enlist their support, and talk to them. We have an open shop in that sense and in my judgment, we are doing pretty well. But let me say again, others have to make the judgment as to whether we are doing well enough.

LOCAL AREA UNEMPLOYMENT STATISTICS

Senator EAGLETON. Do you foresee that the impact of changing to new State and local unemployment data will create serious disruptions in localities, due to sudden loss of Federal funding that was tied into the unemployment rate?

Mr. SHISKIN. I don't think so, because we have been talking to them about these new procedures, for months and months now, and they are well aware of them. Some don't like them and we get a lot of letters of complaint, but they are certainly prepared for the changes.

As you know, there is a fixed amount of money allocated on the basis of these figures. Whenever you make a change, there is

somebody who is going to lose money. The people who lost money, we hear from. But we don't hear from the people who are going to make money.

Senator EAGLETON. That is right.

Mr. SHISKIN. Dr. Norwood, sitting to my right, handles a lot of this work. Would you want to add anything else?

Dr. NORWOOD. There are three laws which relate to the allocation of funds, one of them involving the economic development work. That money is used up already, so there will be no effect there.

In the case of the Comprehensive Employment and Training Act, allocations will not be made until some months after the revised data are already available.

In fact, that bill will be reviewed by the Congress, and the changed data can be taken into account in that process. Consequently, the only funds that will be specifically affected are those in two more quarters of countercyclical revenue sharing allocated by the Treasury Department, and that is relatively a small amount compared to the others.

Senator EAGLETON. If, hypothetically, there was a dramatic change in area *x*, city, county, State, in the unemployment rate, and the given entity out there said: "My God, we thought for sure we were going to get $8 million, and because those guys up there fiddled around with figures, we are only going to get $4 million."

Is there any way we should ease the pain a bit?

Mr. SHISKIN. Well, I think we should move over to a quarterly system, sir, because the monthly figures are very erratic, particularly for small areas. You can get a wild movement between 2 months. It is much less likely that you are going to get a sharp contrast like that between two quarters. We have urged the administration to support this change in methodology, and they have agreed with us. We first urged the Secretary and his staff to make this change. They supported us. In turn, they urged the OMB and White House for support, and they agreed with us. Now we are urging the Congress to change the legislation so we can switch to a quarterly basis. That will reduce the likelihood of many erratic changes.

MONTHLY VERSUS QUARTERLY DATA

Senator EAGLETON. Everybody, you say, seems to support that. There must be some who don't. What would be their argument against doing what you have suggested? What would be the argument against switching it to quarterly?

Mr. SHISKIN. I am not sure there are any arguments against switching to a quarterly basis for allocations, but a lot of the states are reluctant to go to a quarterly system, because, for political or public relations reasons, they want to have an official monthly unemployment rate.

Senator EAGLETON. They are just used to it that way.

Mr. SHISKIN. And they like to have the rate frequently, you know. We have a monthly national rate and it gets a lot of publicity. The Governor of a State will say: "My monthly rate is better than the national rate." Sometimes it is even more advantageous to say: "It is worse than the national rate."

Senator EAGLETON. Well, we have a mayor here, the recently retired mayor of Seattle, Mr. Wesselman, with a letter to Secretary Marshall, January 5th, this year.

A sentence in the letter says, "Yet it appears some questionable assumptions have been incorporated which could have an unjustified negative impact on the levels of certain federally sponsored programs administered by many larger cities.

"For this reason, I most strongly recommend you to delay implementation, and provide for the opportunity for public review and comment."

Mr. SHISKIN. I am not sure what he has in mind, but one of the items that has stirred up a lot of concern on the part of the mayors is that we were about to change our method of determining the distribution of unemployment within an SMSA. Up to this month, we have been using what is known as the Census share method. That means we distribute the estimates for that SMSA on the basis of the figures we have from the 1970 census. Obviously, a lot of those Census figures are no longer correct since they are so out of date. Thus, we have been slowly moving toward a better way of doing it.

We now plan, for most counties to distribute the SMSA unemployment based on unemployment insurance claims, with certain adjustments. One of these adjustments involves the differential pattern of entrants and re-entrants so that we will have all the unemployed covered. We announced several months ago that we were going to make such a change in methodology. The Secretary has since written a letter to every Governor and Congressman explaining this.

Now, a lot of the mayors thought they would lose out to the outlying areas, and that they would, therefore, lose some money. The one I know most about is Atlanta, Ga., where the mayor issued a press release, and made a great complaint because he may lose $14 million.

However, we have made a study of the impact of this change, and it appears that roughly half of the cities will gain, and half will lose. It is not quite that; actually, little more will lose than will gain.

There is an additional point I would like make. We are a statistical agency, and we have to provide up-to-date data. We provide the unemployment estimates, and we must make the best estimates we can.

If the Congress feels this is not the way it wants the funds to go, that is fine with us; it can then change the formula. But we have got to provide the best unemployment figures we can, and that is exactly what we are doing.

As, you know, we are getting a lot of flack about that; but we are all civil servants and that's our job.

PUBLIC INPUT

Senator EAGLETON. I am not learned enough in many areas, including the area of statistics, but while we are going through this process that apparently the mayor of Atlanta has complained about, and that outgoing mayor of Seattle was worried about, do you think there was enough input in terms of public commentary

that the changes you were contemplating, the notion of that got out there, and that people were given enough of an opportunity to say, "Well, wait a minute. I don't like this" or "Let me take a look at that"?

Mr. SHISKIN. I wish we had done more. We tried, and we did a lot, but it was probably not enough. Also, the Secretary has written to all of the Governors. We met with many, many different groups. I have been involved in discussions on this subject for months and months. But, in the end, we have to make the best estimates of unemployment that we know how to make. If the actual funds are going, as a result of these unemployment estimates, in a direction Congress doesn't think is suitable, Congress can change the formula or the law. But we can't make that kind of a value judgment. For example, we can't say: "Look, we think the cities should have more money, or the blacks should have more money, or somebody else should have more money, therefore, we are going to change our estimates." Our job is to make the best estimates we can of unemployment rates and that's what we do.

Senator EAGLETON. You have just described a situation where you would recommend that we go from monthly to quarterly figures, but on current population survey, you are suggesting just the reverse. I take it that you move from a quarterly system to a monthly system?

Mr. SHISKIN. I don't recognize that, sir.

Senator EAGLETON. Oh, well, some have suggested. Some have suggested, whoever "some" are, it is being suggested that the current population survey be done monthly rather than quarterly, for States. Why do some suggest that, and if they do, what would be the cost of so doing.

Mr. SHISKIN. Well, we do it monthly for the national unemployment rate. The question is, do you want to build up the CPS sample so much that you can get an accurate monthly figure for every one of the 50 States, or do you want to move to a quarterly system which involves averaging three figures for each month.

Either way, the basis is the monthly figures but you need a much smaller sample if you are going to average the quarter. It is my judgment—it is not a value judgment on where the money should go but a technical, statistical question—that figures are too erratic on a monthly basis. And that can be very disruptive.

Senator EAGLETON. What might occur in a State to have a wild, erratic shift?

Mr. SHISKIN. You may have just a plain measurement error. Some of our small States, in terms of population, have fairly small samples, and we could just have a large measurement error that month.

Senator EAGLETON. A sudden plant closure? The Youngstown situation, could that have tilted Ohio's figures?

Mr. SHISKIN. Sure. If you have a quarterly system, you get a more stable set of numbers. The quarterly is much less expensive, and we can put it in place much faster. Right now, we have a problem that the data being collected by the Bureau of Census are competing with the Census Bureau plans for laying out the 1980 census. Thus, we have a very hard time getting them to expand the program in any way at all.

So, these are the advantages of the quarterly program. You have a much less erratic movement from quarter to quarter than from month to month. It is much less expensive. And, we can put it in place much faster.

FOREIGN STATISTICAL ORGANIZATION

Senator EAGLETON. Is there a counterpart to you in the Soviet Union?

Mr. SHISKIN. Well, before I had this job, I worked at OMB for 4 years, and I was then the U.S. representative to the United Nations Statistical Commission. I used to attend meetings in Geneva with that group, and a related group, once or twice a year. And, yes, there is a counterpart in the Soviet Union. They have a much more highly centralized statistical system than we have. For example, in the United States there are several statistical agencies. I represent the Bureau of Labor Statistics now. There is, of course, the Bureau of the Census, which does a lot of our work, but is a separate agency. There is also the Statistical Reporting Service in the Agricultural Department. The Soviet Union does have a lot of statistics. I met the man in charge and, I must say, I found him a very fine gentleman. He spoke better English than I did Russian.

Senator EAGLETON. Is it your—in your opinion, are the methodologies, which they use there, sound?

Mr. SHISKIN. Well, that is a big subject. I did get into the GNP figures, and I did not think they were sound. I had some serious questions about their methodologies.

I am very proud that when I was representing the United States, I got the United Nations Statistical Office to do some auditing work on the GNP data submitted by all the countries. I don't know how that is going now, but I thought that was a very important thing to get going.

Senator EAGLETON. I believe in the agricultural area, we find it difficult to get hard data, and that there is some wide variation in crop estimates, for instance. So what the CIA might say, or vis-a-vis the Department of Agriculture. Is there a cloak of secrecy around most of their statistics?

Mr. SHISKIN. Yes. For example, the GNP accounts are set up differently from ours. We cover all production, including the service industries; they don't. They just have what amounts to manufacturing, construction, and mining. These are industries where they have very large emphasis, so their figures compare more favorably if they limit it to that part of the economy. That is all they provide.

Senator EAGLETON. Other industrialized nations, are their systems sound, Japanese, German, British, French?

Mr. SHISKIN. I don't really qualify to judge all the agencies, but, by and large, our data are the best, though they are not the best in every respect. For example, we are introducing now a better method of revising the CPI. Thank goodness we are getting rid of the old method. It was just out of date.

We used to conduct a massive revision once every 10 years. We are now going to a system where we get ongoing, current quarterly estimates of the data we will need to update, and that will result in a big improvement. We will revise part of the retail sales sample

for that survey every year, so every 5 years we will have a whole new sample.

The Japanese and British, however, have been doing that a long time. So that while I think we have the best system in most respects, it is not the best system in all respects.

Senator EAGLETON. Were you consulted at all by the Treasury Department on the target pricing of steel, or should you have been consulted?

Mr. SHISKIN. We don't get consulted in decisions of that kind, but we often get inquiries for data. We provide a lot of data, but I don't know whether we did here. Do you know, Janet?

Dr. NORWOOD. Yes, we did. The Bureau of International Labor Affairs was coordinating work for the Department of Labor. We supplied a good bit of data, particularly in the price area, but also on unemployment and productivity, and so on.

Senator EAGLETON. Thank you very much, Mr. Shiskin.

Mr. SHISKIN. Thank you very much.

[CLERK'S NOTE.—The justification material for this account appears in part 1 of the House fiscal year 1979 Labor-HEW Appropriations Subcommittee hearing record.]

QUESTIONS SUBMITTED BY SENATOR EAGLETON

Senator EAGLETON. I have some additional questions which I will give to you to be answered for the record.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

IMPROVEMENTS IN LOCAL AREA UNEMPLOYMENT STATISTICS

Question: Given the accuracy problems with Local Area Unemployment Statistics, what could the Bureau of Labor Statistics do within a three to six-month period to correct these problems?

Answer: The Bureau will not be able to introduce any further improvement in the data--beyond those already underway--in the next three to six months. Beginning with the January 1978 data, however, improvements in the unemployment estimation methodology are being introduced that are designed to improve the accuracy of the data and reduce the extent of the year-end revisions. These improvements are outlined in greater detail in the answer to a later question.

Question: There has been criticism for using local area unemployment statistics as a criterion for allocating Federal funds. What other labor force data that is collected by the Bureau of Labor Statistics might be used instead or in addition to the unemployment data for assuring that the funds go to areas that need them the most?

Answer: The choice of data depends on the type of program being contemplated. If, for example, funds were to be targeted for chronically depressed areas, employment data could be used as a measure of growth or lack of growth. The Bureau currently produces reliable nonagricultural wage and salary employment for States, metropolitan areas and, with a lag, counties.

Question: It has been suggested that the Current Population Survey be done monthly rather than quarterly for States. What do you estimate would be the additional cost of such a program?

Answer: To expand the monthly Current Population Survey to yield data for all States would require--according to the Bureau of the Census estimate--approximately $11 million over current resources compared with--again the Bureau of the Census estimate--about $3 million for a quarterly system.

Question: Does the Bureau of the Census have the capability to absorb the additional workload?

Answer: The Census Bureau has indicated that the additional work could be absorbed, if plans for a monthly system were implemented: if sample design were started now, usable data on a monthly basis would be available by mid-1980. Plans for the quarterly system will provide usable data by October 1979.

Question: Would the advantage of a monthly Current Population Survey justify the added cost?

Answer: This is a difficult question to answer. The major advantage of the use of monthly data is that it would require no change in existing legislation. An additional advantage is the State's ready acceptance of these data, which is based on a long established tradition of monthly estimates. Aside from the differences in cost, the disadvantages of monthly State data are (1) the erratic movement in the statistical measures, even in cases where the sampling errors are low, and (2) the difficulty in making good economic sense out of the monthly figures. Because of these

statistical quirks in the monthly series, which may not be ameliorated by an enlarged sample, the comparative disadvantage of cost did not loom large in the final choice.

Question: The State and local data are still not seasonally adjusted. When do you anticipate seasonal adjustment might be possible?

Answer: The seasonal adjustment process is slow because of two main constraints: (1) the time required to develop enough data to yield a series of reliable data for a particular area over a sufficiently long time to permit identification of seasonal patterns, and (2) the stability of the time series once it has been established. The time series are already of adequate length for use in ten large States but--on the basis of stability--are usable for only seven States. The shift to a quarterly system will result in the availability of more reliable data but the data must have time to accumulate for the time series. Seasonally-adjusted data will be published as the time series increase in length and attain stability. It is not possible, at this time, to estimate when these data will be available for all States.

Question: How realistic is it to assume that all the legislative changes will be made in time to permit shifting to quarterly local area unemployment statistics by Fiscal Year 1979?

Answer: It seems realistic, at this point, to assume that the Comprehensive Employment and Training Act can be amended in time to permit the use of quarterly data in FY 1979, because it expires in September 1978: contacts have already been made with the appropriate Congressional staff members to effect this change. It should be noted, however, that quarterly data are, according to present plans, not scheduled to be available for use for all States before October 1979, which is the beginning of FY 1980. The other two laws, Public Works Employment Act and Public Works and Economic Development Act, have later expiration dates and the chances of change will depend on the speed of the legislative process.

Question: If local unemployment data is to be collected quarterly instead of monthly, why are six more staff requested instead of less?

Answer: A quarterly system is an expansion of the Current Population Survey beyond its present size: quarterly data will be developed by aggregating monthly data from the States. Hence, since the program will be larger, no reduction in present staff is possible. The staff must be used for two purposes. First, the expansion of the sample of the Current Population Survey will yield more data that will be sufficiently reliable for publication on either a quarterly or annual basis. Part of the increase in staff will be used to analyze, interpret and publish these data for the public. Already in great demand, these data will be used for many purposes, including evaluation of employment and training programs funded by the Comprehensive Employment and Training Act and other legislation. Second, additional staff will be required to administer a system for coordinating the unemployment insurance claims data, which are used by States in estimating their unemployment rates: coordination is necessary in some cases, because some reports may be filed in States where the unemployed person last worked rather than filed in the State of the

person's residence.

Question: How successful have you been in developing a comprehensive system of timely labor market information on a national, State, and local basis?

Answer: Although the responsibility for developing a comprehensive system of timely labor market information, as called for in the Comprehensive Employment and Training Act of 1973, rests with the Employment and Training Administration, BLS--either as part of its own basic programs or under contract with ETA--has made some significant progress in developing labor market information. Employment and unemployment rates are now being developed for more than 6,000 areas to meet the needs of CETA, revenue sharing, and public works programs. The Bureau has negotiated contracts with 12 States to improve their capability to screen reported data on covered employment, wages, and contributions and to break down multi-county units by industry (ES-202). Steps have also been taken to improve the unemployment claims data obtained through the Unemployment Insurance program and used as an input into the estimates of area unemployment. An additional item -- recalls -- has been added to the national, State and area industry data on labor turnover. The Bureau program to provide national occupational outlook information has also been advanced by providing more comprehensive information on occupational supply and demand in a format designed for use by planners of education and training programs at the national, State and local levels (Occupational Projections and Training Needs).

Question: What is the current status of your attempts to develop reliable methods to produce more statistically accurate data on unemployment, underemployment, and labor demand by State, local and poverty areas?

Answer: With regard to underemployment, the Bureau has developed no measures in this area. Although underemployment is relatively easy to measure in terms of hours worked, it is very difficult to measure in terms of underutilization of skills. The problem certainly needs further development.

While the Bureau has not developed data on unemployment and labor demand for poverty areas, we have greatly expanded the availability of data, particularly occupational data, on labor demand by State and local areas. As for unemployment data, the Bureau has just instituted, beginning with the January 1978 data, a number of changes in the estimating methodology designed to make unemployment estimates more accurate through the use of more current data from the Current Population Survey and improved data from the State unemployment insurance programs.

The changes will also bring State and area estimates more closely into line with the national unemployment statistics and reduce the extent of the year-end revisions in the State and area unemployment estimates. It should be emphasized that the changes do not affect the national unemployment statistics published by the Bureau and do not affect the definitions of employment and unemployment.

Question: In terms of best understanding the unemployment problem, both cyclical and structural, what combination of data would you

suggest we examine?

Answer: As you know, the Bureau of Labor Statistics publishes unemployment data broken down by a wide variety of characteristics from which can be chosen the measures needed to arrive at some understanding of the dimensions of cyclical and structural unemployment. No single unemployment measure or combination of measures, however, can serve as a precise indication of cyclical or structural unemployment, because all measures represent a combination of the frictional, cyclical, and structural components of unemployment, which in practice are impossible to disentangle. Some measures stand out, though, in the sense that their cyclical or structural aspects tend to be more evident.

Perhaps the best series to measure the cyclical amplitudes of unemployment is the number of job losers among the unemployed. Widespread job loss is one of the more obvious results of a downturn in business activity, such that an observation of changes in job loss unemployment--either the level or as a percent of the overall civilian labor force--provides a relatively good means of tracking cyclical unemployment. Additionally, unemployment in certain industries and occupations has traditionally been identified as more cyclical in nature than in others and therefore bears examination when considering the cyclical unemployment problem. These include the goods-producing industries such as construction and manufacturing and the blue-collar occupations associated with those industries, particularly craft workers, operatives (except transport), and nonfarm laborers.

In dealing with the problem of structural unemployment, data on long-term unemployment are often utilized. Although a strong cyclical component is also present in these data, an examination of the demographic characteristics of those unemployed for long durations (often 15 or 27 weeks and longer) can provide valuable insights into the dimensions of structural unemployment. Additional understanding of the structural unemployment problem can come from examining the unemployment data for groups who often encounter structural imperfections in the labor market. These would include Black and Hispanic minorities, who suffer from discrimination, inadequate education and training, and other structurally related problems, such as living in areas where there are few job opportunities plus transportation difficulties in getting to the available jobs elsewhere. Another group would be young people in general, who have the problem of lack of training and job skills.

STANDARD INDUSTRIAL CLASSIFICATIONS

Question: How did you arrive at the Standard Industrial Classification request for eight more staff?

Answer: The request for a staff of eight for Standard Industrial Classification is to maintain a function established as part of the conversion of BLS employment, hours and earnings data to the 1972 SIC. This function is to have personnel in BLS regional offices monitor State Employment Security Agencies in their 3-year cycle of reviewing employers' product and activity lines and the assignment of

industry SIC codes to all of the approximately 4.2 million units covered by State unemployment insurance laws. This includes conducting quality measures of SIC coding as well as maintaining a system of SIC code interpretation. Without these positions this function will have to be discontinued, resulting in a decline in quality of BLS industry data and a duplication of effort by continuing the collection and independent coding of product information in many BLS surveys.

Question: How much did you request of OMB?

Answer: A request for 16 positions was made to OMB. The additional staff would have been used to coordinate SIC activities with both the field and other agencies in an effort to concentrate all SIC related activities in one BLS program.

TOTAL COMPENSATION COMPARABILITY

Question: What would happen if you don't get the 25 new positions requested in a supplemental for the "Professional, Administrative, Technical, and Clerical Survey," which we understand provides comparability data for determining Federal pay raises?

Answer: The on-going survey, which provides salary data for white-collar occupations, would not be affected. The Bureau, however, would be unable to carry out the "Total Compensation Comparability" project.

Question: Why can't this request wait for consideration in the regular Fiscal Year 1979 budget?

Answer: The 2-year project covered by the FY 1978 budget supplement is part of a multi-agency plan by the Department, OMB and the Civil Service Commission to have data on employee benefits available by the end of FY 1979 for a "Total Compensation Comparability" approach for Federal employees. Waiting for the FY 1979 budget cycle would delay this Government plan by at least 1 year.

Question: Realistically, how quickly could this staff be recruited, selected, hired, and trained?

Answer: At least 3 months will be needed to hire and train staff. The Bureau expects to begin hiring and training this staff as soon as possible so that it will be prepared to carry out major activities in the last half of FY 1978 and in FY 1979: developing a survey design, building a computer system, collecting employee benefits data, and tabulating and delivering survey results to the Civil Service Commission.

Question: How long will this staff be needed?

Answer: The new staff will be needed for the entire 2-year period required to put the employee benefits data base system in place.

Question: Wouldn't it be easier and quicker to hire 25 term (two-year) employees, rather than permanent staff?

Answer: Term appointments would not shorten the recruiting and training period. Although 25 new positions are required to develop

the data base system, it is estimated that only 15 of these positions will be needed to maintain the system once it is in place. The FY 1980 budget should show a reduction of 10 positions.

IMPROVEMENTS IN PRICE STATISTICS

Question: Why will it take ten more computer processing staff for ongoing maintenance of the Consumer Price Index?

Answer: The ten additional positions and $840,000 requested for FY 1979 are to be used for completion and enhancement of the Consumer Price Index computer system as opposed to being devoted to ongoing maintenance of the index. The computer system used to produce the CPI is not complete and is of an interim nature. It was constructed as such to enable the Bureau to meet its deadline for completion of the CPI Revision program. While this system will produce indexes of acceptable quality in the short run, it is neither complete nor efficient enough to support production of the CPI on a long-term basis. The proposal will enable the Bureau to utilize a portion of the experienced systems staff involved in the development of the CPI computer system, who otherwise would not be available due to the phase-out of the CPI Revision Budget Activity.

Question: What are the principal uses of the Industrial Price Indexes for which 70 new positions are requested?

Answer: The purpose of the Industrial Price Revision is to replace the current Producer Price Indexes, of which the Wholesale Price Index is the most familiar, with a set of more accurate and comprehensive indexes.

The most visible and perhaps most important use of these data is in the monitoring of inflation. Major government and business policy makers use the summary indexes in determining policy goals and actions. Detailed indexes are used by price monitoring agencies to identify trouble spots and analyze specific markets. These data also have extensive use as escalators of long-term purchase agreements. Although the Bureau does not know the total value of such contracts, they total at least $100 billion. This means that these data have one of the largest monetary impacts of any statistics produced by the Federal government. An additional use of these data is to deflate large portions of the national income accounts, which then show how much the economy is growing in real terms. Finally, the data are used in a wide variety of analysis and forecasting by government, business and academic researchers.

Prior to launching this revision, BLS conducted a user's survey as part of its planning effort to insure that user needs would be met. The report of that survey is submitted for the record.

Question: How did you arrive at the estimate that 70 new staff are needed in connection with the revision of the industrial price indexes?

Answer: To estimate resource requirements, the Bureau identified four major areas of work: industry initiation, industry maintenance, survey improvements, and fixed production costs. Detailed tasks were set down for each area. The personnel and other costs required to

perform each task were then developed based on experience with (a) a pilot survey conducted in Fiscal Year 1977, (b) the existing Wholesale Price Index program, and (c) other new BLS surveys such as the revised CPI and the Employment Cost Index. The request for 70 positions is based on the survey preparation, data collection, and data processing workload required to initiate 35 industries. Different levels of production would require different resources. Most personnel required for fixed productions and improvement activities are on board for 1978. The requested increment will go almost exclusively for the initiation of data collection. Estimates for initiation include the costs associated with advance preparations for accelerated collection in FY 1980.

Question: How much did you request of OMB?

Answer: The Bureau's request to OMB for this project was 79 positions and $2,142,000. The effect of the reduction was to reduce from 42 to 35 the number of industries to be initiated. Favorable treatment of this request by OMB may reflect the fact that (a) BLS has kept OMB informed on the objectives of this program. Accurate resource estimates for FY 1979 and future years were included with our FY 1978 requests so they were able to include this expanded funding in their initial plans; (b) a study funded by the Council on Wage and Price Stability was completed and was the subject of hearings before the Joint Economic Committee on August 5, 1977. These emphasized the urgency of this revision and (c) the pilot survey was successfully progressing on schedule.

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Departmental Management

STATEMENT OF ALFRED M. ZUCK, ASSISTANT SECRETARY FOR ADMINISTRATION AND MANAGEMENT

ACCOMPANIED BY:

HOWARD D. SAMUEL, DEPUTY UNDER SECRETARY FOR INTERNATIONAL AFFAIRS
CARIN A. CLAUSS, SOLICITOR
ARNOLD H. PACKER, ASSISTANT SECRETARY FOR POLICY, EVALUATION AND RESEARCH
ALEXIS M. HERMAN, DIRECTOR, WOMEN'S BUREAU
H. STEPHAN GORDON, CHIEF ADMINISTRATIVE LAW JUDGE
SAMUEL J. SMITH, CHAIRMAN, BENEFITS REVIEW BOARD
FRANK A. YEAGER, DIRECTOR, DIRECTORATE OF AUDIT AND INVESTIGATIONS
WILLIAM R. REISE, COMPTROLLER FOR THE DEPARTMENT
CHARLES E. PUGH, DIRECTOR, OFFICE OF BUDGET

President's Committee on Employment of the Handicapped

STATEMENT OF HAROLD RUSSELL, CHAIRMAN

ACCOMPANIED BY BERNARD POSNER, EXECUTIVE DIRECTOR

BUDGET REQUEST

Senator Eagleton. We will now hear testimony concerning fiscal year 1979 budget request for departmental management.

Mr. Russell, I understand you have to catch a plane. Why don't you give us your statement?

Mr. Russell. Thank you very much, Mr. Chairman.

I appreciate the opportunity to appear here today. Our proposed budget is for $1,616,000. We are asking for no increase in personnel or programs, other than the built-in mandatory increase of $111,000 over the amount in the President's budget for fiscal year 1978.

In other words, our budget for the coming year is stand pat in dollar amount. I assure you our activities for the forthcoming year certainly will not be stand pat.

Within the framework of the budget, we are establishing new priorities to meet newly emerging trends and problems.

I would like to take just a few minutes to summarize these for you.

First of all, the relation of the President's Committee with the States. As a result of the White House Conference held last year in Washington and all the State conferences that preceded it, we have found that handicapped people around the country have begun to

grow more articulate in their demands, and more aware of their civil rights, and more hopeful in terms of entering the labor market.

In the States, the focal points have become the Governors' Committee on Employment of the Handicapped.

At the same time, employers covered by affirmative action programs have also turned to the same Governors' committees, as the focal points for assistance and information. We are meeting these stepped-up demands through regional representation. We have two regional representatives and we will add a third one this year.

Also our staff here in Washington operates on a regional basis, with each person on the staff responsible for activities in a number of States.

Second, our efforts in affirmative action. The President's Committee, obviously, does not administer sections 503 or 504 of the Vocational Rehabilitation Act of 1973. We have no operational responsibilities. But we have been playing a role in two ways. First, in encouraging employer acceptance of affirmative action, and second, in encouraging handicapped people to seek jobs with affirmative action companies. We have done these things in a couple of ways: by holding special seminars for special groups and by publications encouraging handicapped people to enter the labor market.

An example of the former is a special meeting we arranged between handicapped consumers and the administrators of section 503; an example of the latter is a booklet for handicapped people on how to get a job with an affirmative action employer.

Our affirmative action efforts will grow during the coming year, as we target in on some of the major employers covered by section 504: schools, colleges, hospitals, nursing homes, and institutions of all kinds, in an effort to build their acceptance of handicapped people on the payroll.

Third, our relations with handicapped consumers. The recent White House Conference was a consumer-directed conference. The recommendations coming out were the recommendations of handicapped people. And these voices are becoming stronger. We feel we have a responsibility to assist them in doing a more effective job of speaking out.

By speaking out, they are gaining a new sense of self-dignity. This new sense of dignity actually enhances their employability, for they are now being looked at, not as objects of pity, but as human beings of equality.

During the coming year we will do many things in the field of consumers: implement their White House Conference recommendations dealing with employment of handicapped people; give handicapped people information on how to use the political process effectively to make their views known; encourage their involvement in affirmative action; and to encourage America to listen more closely to what our handicapped population has to say.

Fourth, our efforts with the mass media. One dominant recommendation of the White House Conference was the need for stepped-up promotional efforts to build greater public acceptance of those who are handicapped.

I think promotional efforts have been our basic strength over the years, and we are now responding to this recommendation by: (*a*) a

series of syndicated columns and radio materials by handicapped writers; (*b*) a year-round advertising campaign at no cost to the Government—the campaign is designed by a noted school of advertising art and magazines donate free space for the ads—and (*c*) more selective promotion aimed at selected publics, such as employers, rehabilitation people, others.

These are only highlights of our expanded program for the coming year. And I cite them to indicate how we attempt to remain sensitive to the times even without budget increases; to indicate that the President's Committee does not have hardened arteries, but knows how to be flexible and effective.

I appreciate the opportunity to appear before the subcommittee today, and will be happy to answer any questions.

I have Mr. Bernard Posner, our executive director. I am sure he can handle anything I can't respond to.

Senator EAGLETON. Thank you, Mr. Russell.

We have a couple questions, then maybe Mr. Zuck can help out if you don't have the information.

BUILDING ACCESSIBILITY

We heard parts of the HEW budget yesterday. Secretary Califano testified for close to 4 hours, I guess, 3½ to 4 hours.

It was a broad overview of the complex HEW budget. We didn't get down into subcategory line by line, but we were getting the broad picture, how much for education, et cetera. When he got to the education section of the budget, we got into the question of handicapped. Now Congress in the last, I guess, half dozen years, has passed a series of laws pertaining to public accessibility to buildings.

We passed education, both elementary, secondary, and higher education, I believe.

We passed some with respect to construction of subways. We passed them with respect to purchasing of buses by the city transit companies. All HEW grantees have to have program accessibility. Since they are in the millions, that means there are a lot of grantees out there.

Now, has anybody at this juncture tried to pull together, one, what this is going to cost; two, over what period it is going to cost them; and, three, who is going to pay for it?

Mr. RUSSELL. I think first of all, Mr. Chairman, there was a cost analysis done with the bill when it was submitted. But, obviously, because of the complexity of the matter, there is a lack of real research into how much it costs to actually make buildings accessible, depending on whether they are new buildings, where they are built, and so forth. It is pretty difficult. But I can say one thing with certainty. The small amount of research that's been done indicates the cost is not anywhere near what the public media and some officials would believe.

I think it is quite a bit smaller. Also, I think there has to be a great deal of commonsense built into this. I think many administrators, and many officials of public buildings, believe it is necessary to go through the building top to bottom and tear it all down and reconstruct it, elevators, and so forth.

In most, or many cases, there is only a small amount of accessibility necessary to make sure that handicapped people can get into the building, and use it.

In things like this, there is a great deal of commonsense involved.

So, as far as its actual cost, it is very difficult at this point to put a dollar figure on it.

Senator EAGLETON. I know it is difficult. I am not going to press you hard on it. But when we pass these things, we did it, shouldn't we have at least a pretty decent guesstimate as to what this is going to cost? Who is going to pay it? We had a group from the Missouri—the Missouri school board, or a national chapter. They had lunch with me. These are members of school boards. It is a sacrifice, none serve for salaries. They are well-intentioned, well-motivated people. Several were absolutely alarmed that we didn't know what this was going to cost, we were just starting to find out what it was going to cost. Maybe they are just misreading it, but they were really stunned. They asked me, "Eagleton, did you know what you were voting for?"

I waffled around and did a speech on some other issue, and so on and so forth. But if we don't really know, now maybe it is that we don't, shouldn't we be about the business of getting to know?

Mr. RUSSELL. I think so. Mr. Posner, do you want to respond specifically to that?

COST OF MODIFYING BUILDINGS

Mr. POSNER. Yes. Before the regulations were even issued, there was a very long economic impact statement that HEW had prepared. It took many months to prepare. I read it thoroughly. It took into account so many factors that I really didn't know what it all added up to in dollars and cents. It took in such factors as the possible improvement of productivity of people who will be trained and educated, over the period of their lifetimes. But that doesn't help a school district in meeting immediate costs.

To answer your third question first, no, there are no provisions for the Federal Government to pick up the costs of making buildings accessible.

However, there is a bill that's been introduced by Congressman Jeffords for $6 billion to do just that thing.

Senator EAGLETON. Some of us have a bill, Senators Randolph, myself and Stafford mandating some planning and making some Federal moneys available to do the planning. The price tag is $15 million nationwide.

I am not trying to tout you on my bill. But it is a real problem. For instance, in yesterday's budget hearing, HEW asked for $50 million for higher education, for redesign, updating, whatever the term is. Is that a pretty good guess on their part, do you think, $50 million?

Mr. POSNER. In matters of accessibility, it becomes quite definitional. I feel that the Office of Civil Rights at HEW has been taking a pretty reasonable approach. But I am not sure everybody's listening. HEW is talking about program accessibility and not total accessibility of every last bathroom and every last attic in a building.

So when you look at program accessibility, the fact that every major subject somehow is available sometime and someplace to some handicapped person is a little different than the fact of categorically going through a building, such as this building here, and rebuilding it completely with ramps and extra wide bathrooms.

SUBWAY ACCESS

Senator EAGLETON. Did I tell you an experience I had in Montreal, Mr. Russell?

Mr. RUSSELL. No.

Senator EAGLETON. I used to be chairman of the Senate District of Columbia Committee, a very powerful assignment, and in 1969 or 1970, I think it was, when the subway was still being much discussed, I don't think the ground, maybe some of the ground had been broken, but Congressman Natcher was, I think, still holding up some of the money. He had more wisdom, frankly, than he was given credit for at that time. He spotted, as many, including myself, did not, the enormous construction costs.

Anyway, I went to Montreal. They had put in a fairly recent subway system, so I went up and met their designers and planners, went through the system, et cetera.

And one of their head planners said, "Well, you have asked us a lot of questions, can we ask one?"

I said, "Sure."

He said, "Who came up with that design of that system in Washington, wherein every stop is going to have to have an elevator, a guard, an attendant on the elevator?" He said, "Do you have any idea what that is going to cost?"

I said, "I guess it is going to cost some money."

He said, "It is not only the capital costs, but the personnel cost. Did any of you people price that out?"

I said, "No, we didn't."

He said, "We are not callous or indifferent up here in Montreal but," he said, "we did. We decided the only way we could be halfway cost-effective was not to put in elevators, and what have you, but to provide necessary surface transportation to assist the handicapped, but not to totally redesign the whole subway system to take care of people in wheelchairs, and what have you."

Would you have any comment on that?

WASHINGTON SUBWAY ACCESS

Mr. RUSSELL. I think that, obviously, with the Washington subway system, it started out at the very inception with the premise that the handicapped had to be included. I am, obviously, not an engineer. I am not really sure whether this was met in the very best way.

Mr. POSNER. May I?

Mr. RUSSELL. Sure, go ahead.

Mr. POSNER. I think you have some very basic issues of political science. A matter of separate but equal, as opposed to a total system that is accessible to all. Washington has gone the way not of separate but equal; but of total accessibility. And it cost $67

million. I agree that not too many handicapped people have ridden it so far, because it doesn't go too many places.

I have a feeling that they will, but I am not even sure that numbers are the factor here. I think it is a deeper thing than numbers. It is a matter of our basic philosophy of rights of minorities.

Senator EAGLETON. Well, that is a very good philosophical approach. In a sense, no one can fault the philosophy of it. It is like nobody faults the philosophy of having clean air, and clean water. You can say, "Well, that is just a basic elemental lesson in political science." Of course, everybody ought to breathe clean air and drink clean water, is there any doubt about that? That is basic political science. Then you close those steel mills in Gary, and Hammond, Ind. that employed 95 percent minority, and you put 22,000 out on the streets. That is pretty elemental political science, too. Life is filled with tradeoffs. As President Carter said, "There are many inequalities in life." He didn't say it with pride. He just said it with benign recognition of a fact. And, not everybody is equal. Not everybody can be made equal.

And so, I think, although that is a humanitarian answer, it is not the only answer.

Mr. POSNER. Certainly it is not the only answer. But of course, in Washington, it is a little after the fact. The subways are in place.

Senator EAGLETON. Oh, no, in that sense, the question is academic. But some other city, I doubt it frankly, some other city might contemplate a subway system. I think, frankly, this is the last, maybe in the whole world. I mean that. The costs are so outstripping passenger, even the highest potential passenger load. And as the suburbs may be moved back on the system, it will destroy its financial effectiveness instead of an outreach, going out 98 miles, it will cut back to 60, thereby insuring itself of a catastrophic economic nature.

BART, you know, has had enormous troubles in San Francisco, so I think maybe this is the end. So, insofar as subways, it is academic. But it is not totally academic, say, for surface transportation. Bus purchases. Should every bus have the newest design, what does that cost, how many will use it, what is the payout on that. And it is comforting to say, we don't believe in separate but equal, we believe equal access, equal means equal.

But life ain't always that way.

Mr. RUSSELL. I think probably, Senator, what we need are a lot more studies, now that the number of our handicapped people are increasing, the numbers of paraplegics, and quadriplegics, some kind of studies must be done on how we can move these people around.

Obviously, private transportation, in most cases, is not the answer, because the cost is prohibitive to a handicapped person. And, as far as getting employment, with that kind of transportation cost, you just can't do it. So, there has to be an answer.

I came down on the Washington subway escalator, and some kind old lady stopped me, and asked me, what I was using the escalator for. "You handicapped people ought to be using the elevator," she said.

Senator EAGLETON. Thank you, Mr. Russell. I know you want to catch a plane.

Mr. RUSSELL. Thank you very much. I appreciate the opportunity.

STATEMENT OF ALFRED M. ZUCK

Senator EAGLETON. Mr. Zuck, we are back with you.

Mr. ZUCK. Thank you, Mr. Chairman.

I am going to be speaking on the Department of Labor departmental management salaries and expenses, and special foreign currency appropriations. I have a prepared statement I will submit for the record. If I can, I would prefer to make a couple of highlighting remarks. The departmental management appropriation has many activities and organizations that not only cover the broad executive offices of the Department of Labor, and the basic administration and management activity, but also includes all the legal support activities of the department, which are the basic support to all of the enforcement programs of the department, and the Bureau of International Labor Affairs, which has a wide ranging number of programs and a very expanding, increasing program for trade adjustment assistance for workers adversely affected by imports.

The Secretary has just recently reorganized the department, and has moved, and elevated, the Women's Bureau, which was a part of the Employment Standards Administration, to the Secretary's office. So now, the Women's Bureau is a part of this appropriation.

Included also are the adjudicatory functions: the administraive law judges, Benefits Review Board, Employees' Compensation Appeals Board. The President's Committee, which we were just talking about is included also. And now, we have got a special request for a minimum wage review commission, which is required by the new amendments to the Fair Labor Standards Act.

We have got some supplemental budget items, requesting an additional $1.2 million and 82 positions, essentially related to the increased legal support necessary to carry out the minimum wage amendments and the undocumented workers program.

And, most importantly, the new mine safety and health legislation. The Mine Enforcement Safety Administration from the Department of Interior will be transferred to the Department of Labor effective March 9. The testimony you will hear following our testimony will be on that appropriation request. So, we have built into our 1978 and 1979 budget, the legal support staff necessary to implement that new legislation. We have also got additional requests for the trade adjustment assistance program where the number of positions has been increasing enormously. We appear to be back before you every several months on supplemental requests in this program. We are back again.

For 1979, we are requesting a total of, roughly, $80½ million.

TRADE ADJUSTMENT ASSISTANCE

Senator EAGLETON. Is that trade adjustment?

Mr. ZUCK. Trade adjustment?

Senator EAGLETON. How much? 80? 80 what?

Mr. ZUCK. For trade adjustment, 82 positions are pending in a supplemental that is pending before the Congress, but it is tied up in the B-1 bomber issue.

Senator EAGLETON. Yes.

Mr. ZUCK. But we have an additional request here for $300,000 and 30 temporary positions for trade adjustment.

Senator EAGLETON. Do you have ballpark figures, what we pay out to workers in trade adjustment, not talking about the payroll, et cetera, but if you don't have them——

Mr. ZUCK. Let me ask Mr. Samuel or one of his staff on the amount——

Mr. PUGH. It is about 190 million.

Senator EAGLETON. For fiscal 1978?

Mr. PUGH. Right. And the same estimate for 1979.

Senator EAGLETON. You don't think it is going higher?

Mr. PUGH. Right.

Senator EAGLETON. What was it, sir? Are you the figure man?

Mr. SAMUEL. Marvin Fooks.

Senator EAGLETON. You are Mr. Fooks. You have been very, very cooperative in this, a very sensitive area, you know. People are yelling and screaming at you. You have done an excellent job. What have you got, like 1971, 1972, earlier years?

Mr. FOOKS. The total since April 1975 is roughly $350 million. It's been increasing on an annual basis.

Mr. SAMUEL. It's about 300,000 workers.

Mr. FOOKS. On the dollar payments, until recently, it's been a regular increment, between $11 million and $13 million a month. In November, it increased by $33 million.

CHANGES IN THE TRADE ADJUSTMENT PROGRAM

Senator EAGLETON. Refresh my memory. I know we have reference point pricing and all that on steel, et cetera.

Is the administration preparing a legislative package on the substance of trade adjustment? I am not talking the dollars. Do we know what——

Mr. SAMUEL. There won't be an official legislative package. What we are going to be doing is working with, initially, the House Ways and Means subcommittee in a markup which, I think, is supposed to be in before the end of the month.

We will be working with the chairman in some areas of improvement the administration will support. We will see what happens at the end of that markup. There is certainly no question there is some room for improvement in closing loopholes.

RELOCATION OF WORKERS

Senator EAGLETON. Can you find some instances, Mr. Zuck, where similar jobs are available in other States, they don't want to move? We found that with my iron ore guys down there.

Mr. FOOKS. Yes, I was down on that one. They certainly don't want to move.

Senator EAGLETON. There were jobs in New Mexico or Arizona I read about.

Mr. FOOKS. Right.

Senator EAGLETON. If a worker is willing to move, do we pay part of that cost?

Mr. FOOKS. We would pay 80 percent of his relocation expenses.

Mr. SAMUEL. If I could add, the incidence of that is probably never going to be very great. The average age of workers who get adjustment assistance is considerably older than the average. So, he is somewhat older, probably less skilled than the average.

Very often, of course, more than half the families in America now have two members working, so if one member loses a job, they just can't move automatically.

Senator EAGLETON. They shut down the shoe factories in Missouri, and it is a lot of women. The husbands may be farmers. The notion of moving is unreal, and in a town of 3,000 people, and you close the shoe factory with 300 workers, what do you retrain them for in that town? The shoe factory was it.

Mr. SAMUEL. Yes, we find the same kind of phenomena in New York City. The apparel workers lose their jobs. They are older; it is really impossible, so they are pretty much stuck in New York City.

REQUESTED INCREASES

Senator EAGLETON. Well, you do need some additional people.

Mr. ZUCK. Yes.

Senator EAGLETON. That is understandable.

Mr. ZUCK. We have a request in the supplemental presently in conference, and we have also got an additional request we are submitting as part of this budget in the 1978 amendment. A request for 1979 is for $80½ million, which is an increase of about $8½ million, the overwhelming proportion of which goes to mandatories.

We have, roughly, a $2½ million increase that will provide some additional 24 positions to meet the workload that is coming out of our various worker compensation and other programs that are being appealed through administrative law judges and Benefits Review Board, and the Employees Compensation Appeals Board.

We also have a request for 30 new positions to expand and improve our financial audit programs, so we can do more audits of prime sponsors, and other program recipients receiving Department of Labor program funds.

SPECIAL FOREIGN CURRENCY

We have a special foreign currency appropriation request, $200 million—$200,000. Did I say million? [Laughter.]

In which we are asking for appropriation of currencies excess to the United States needs for the purpose of holding overseas international labor conferences.

MINING ENFORCEMENT AND SAFETY ADMINISTRATION TRANSFER

One final comment. I indicated that the Mining Enforcement and Safety Administration will be transferred to the Department effective March 9. There will be a determination order issued at that time, and there will be some additional staff from the Department of Interior which will be transferred to the Department and, as soon as the magnitude of that transfer is determined, we will be

adjusting our budgets accordingly, both for fiscal 1978 and 1979, to reflect that transfer of that overhead or support staff.

That is all, in summary, I have got to say, Mr. Chairman.

Senator EAGLETON. When the transfer takes effect now, will the Labor Department then have the total ball of wax on mine safety, any and all mines?

Mr. ZUCK. Yes, sir. There is only one exception, the Mine Enforcement Safety Administration has a training academy in Beckley, W. Va., which under the statute, remains in the Department of Interior.

But, aside from that—

Senator EAGLETON. Did Senator Byrd want it there? It remains.

Mr. ZUCK. It remains, right.

Senator EAGLETON. OK.

WOMEN'S BUREAU

The Women's Bureau?

Ms. CLAUSS. No.

Mr. ZUCK. She is Solicitor of Labor, Carin Clauss. The Women's Bureau is Ms. Herman.

Senator EAGLETON. Tell me what the Women's Bureau does. I ought to know more about it.

Mr. ZUCK. Promotes jobs for men. [Laughter.]

Ms. HERMAN. Thanks.

The Bureau is responsible for the development of policies and programs within the Department to advance the status of working women. We do this primarily through economic analysis and review, legislative analysis and review of various pieces of legislation, both in terms of the Department and on the Hill, that would have an impact on working women.

We do it through coordination internally of departmental programs, working with each Assistant Secretary to look at the specific programs and policies that they are developing.

We do it through outreach programs in the field.

We have regional offices of the Bureau, and through a technical assistance advocacy role, we play to a constituency of approximately 300,000 women annually.

Senator EAGLETON. With more and more women entering and seeking to enter the work force at all levels of skills training and competence, are you satisfied that the Women's Bureau is keeping up to date with the needs of women and is aggressive enough or activist enough, or whatever the verb?

Ms. HERMAN. Senator, I always think that there is room for improvement. Certainly, with the rapid increases of the labor force participation rates of women, the demands are greater daily on the Bureau.

But I think with the resources that we do have, that we do our best.

Senator EAGLETON. Was the Women's Bureau transferred from somewhere to somewhere?

Mr. ZUCK. It was a part of the Employment Standards Administration in the Department of Labor. It was a subcomponent of that Administration, and Secretary Marshall on January 1 moved it out of that Administration and put it in this office to give it a much

broader departmental perspective and influence on all departmental programs, so that they will be influencing the employment and training programs, occupational safety and health, trying to impact from the point of view of women in the work force throughout the Department.

QUESTIONS SUBMITTED BY SENATOR EAGLETON

Senator EAGLETON. We have additional questions for the record, and we will submit those to you in writing, and you can get the answers back to us.

Mr. ZUCK. Thank you very much.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

WELFARE REFORM STAFF

Question: The Employment and Training Administration is requesting 30 new staff for welfare reform planning. Do you expect that these positions will eventually be transferred to augment the welfare reform planning staff in the Office of the Assistant Secretary for Policy, Evaluation, and Research?

Answer: It is possible that some of the positions may be transferred to the Secretary's office at some future time, but there are currently no definite plans to do so. As the research effort develops, the Department will reevaluate the relative resource needs of the participating organizations, and will allocate its resources accordingly.

NEED FOR MORE LAWYERS

Question: Why do you need 72 more lawyers for work related to the "Mine Enforcement and Safety Act and the Fair Labor Standards Act?

Answer: The request for 72 additional positions--65 attorney positions and 7 clerical positions--is directly related to new legislation and associated needs of program agencies for additional legal services which cannot be provided by the current staff of the Office of the Solicitor. More specifically, the Employment Standards Administration has requested 315 additional compliance officers to implement the Fair Labor Standards Act amendments of 1977, requiring 95 compliance officers, and carry out a major presidential initiative in the conduct of enforcement activities directed toward those industries most likely to employ undocumented workers, requiring 220 compliance officers. Assuming Congressional approval of these supplemental budget requests, the Employment Standards Administration estimates that it will conduct 3,700 additional compliance actions in fiscal year 1978, increasing to approximately 18,000 additional compliance actions in fiscal year 1979. Based on past experience, approximately eight percent of the above cited compliance actions can be expected to result in the referral of investigative files to the Office of the Solicitor for possible legal action. Typically, slightly over half of the cases referred for legal review ultimately result in the filing of a law suit by the Department. Thus an additional 21,700 compliance actions will result in the referral of approximately 1,735 investigative files for legal review and the institution of an additional 880 law suits.

The Federal Mine Safety and Health Amendments Act of 1977 provides for the transfer of Federal mine safety and health responsibilities from the Department of Interior to the Department of Labor effective March 9, 1978. Among the major changes in the structure of mine safety and health enforcement is the provision that extends the assessment of civil money penalties to safety and health violations

in noncoal mines, and issuance of safety and health standards in conformance with statutory provisions as to content and time deadlines.

Most important is the new provision for the assessment of civil money penalties in connection with violations of the noncoal standards. Previously, there had been practically no litigation in the noncoal area, and the assessment of civil money penalties against employers was restricted to violations of the Coal Act. Thus an annual figure of 2,900 noncoal cases are expected to be referred to the Office of the Solicitor for review and preparation and possible presentation to Administrative Law Judges of the Federal Coal Mine Health and Safety Review Commission.

Increases in litigation at the U.S. District Court and the U.S. Court of Appeals levels are also anticipated with increased compliance activity, new provisions for mine closures and hearing of discrimination charges, and the initiation of lawsuits testing the constitutionality of the new Act. Finally, there is currently a high backlog of litigation that must be reduced, e.g., approximately 1,430 Coal Act cases pending at the Administrative Law Judge level and approximately 6,500 penalty cases awaiting disposition at the U.S. District Court level.

With regard to the development and issuance of standards, full scale rulemaking hearings are expected to be necessary in connection with 70 packages of standards or rules prepared each year. Many of these standards will be complex health standards which will be the subject of criteria documents developed and submitted to the Department by the Department of Health, Education, and Welfare and/or the National Institute of Occupational Safety and Health. These documents will have to be given careful legal review before final action is taken by the Department.

The 70 packages refer to a group of standards or rules published as one unit for comment in the Federal Register and possible subsequent issuance in final form. Each package may in turn contain as few as 10, or more than a hundred, separate "standards."

Question: How many lawyers do you already have in the Solicitor's office?

Answer: There are currently 420 occupied attorney positions.

Question: How many lawyers currently work on Mine Enforcement and Fair Labor Standards legislation?

Answer: The Office of the Solicitor, Department of Interior currently has approximately 25 attorney positions carrying out activities in support of the legal work required by the Mining Enforcement and Safety Administration. The Office of the Solicitor,

Department of Labor national office and field, has approximately 92 attorneys engaged in providing legal advisory and litigation services required under the Fair Labor Standard Act, including the child labor provisions and the Equal Pay Act.

RESUBMISSION OF TRADE AND UNDOCUMENTED WORKERS SUPPLEMENTALS

Question: You are resubmitting two supplemental requests already contained in the Conference Agreement on the pending FY 1978 supplemental carried over from the last session of Congress. Why should we act on this new request, as long as the existing supplemental is still pending?

Anwser: The President's Budget provides for a technical resubmission of the pending supplementals in order to indicate the President's concurrence in the action of the Congress.

TEMPORARY VERSUS PERMANENT TRADE ADJUSTMENT STAFF

Question: Last fall, you requested a supplemental for 82 new staff for Trade Adustment Assistance activities, including 25 temporaries, which the conferees approved but converted entirely to permanent staff. For Fiscal Year 1979, you are requesting ten more permanent Trade Adustment staff. Why, then, are you requesting another supplemental for 30 additional temporary staff?

Answer: The use of temporary employees in the Trade Adjustment Assistance program provides the Bureau some measure of flexibility in reducing the size of its staff in the event that the Adjustment Assistance petition workload should decline. If the entire Trade Adjustment Assistance staff were permanent, a reduction in staff size would have to be accomplished either through a reduction in force--which is injurious to staff morale or attrition, which would take longer than merely cutting back on temporary staffing.

The Department is not predicting a reduction in petition workload, and, since the future workload is uncertain, staffing flexibility is needed.

For Fiscal Year 1979, the Department is requesting ten more temporary staff.

TRADE ADJUSTMENT PETITION PROCESSING TIME

Question: The law requires you to investigate Trade Adjustment Assistance cases and make decisions within 60 days.

You testified last fall that most cases currently require more than 120 days but your supplemental would cut average processing time to about 90 days.

How much more money and staff would you need to reduce average processing time to less than 60 days for Trade Adjustment Assistance cases?

Answer: Approximately 30 positions and $328,000 would be needed in addition to the amount requested for FY 1978. Such an additional increase, however, would be difficult to absorb efficiently in one year.

ADJUSTMENT ASSISTANCE FOR FARMERS

Question: What are you doing to provide assistance for farmers due to the continuing decline for workers needed in agriculture?

Answer: Import competition is not a general problem facing farm workers. Consequently, only farm workers associated with products such as sugar crops and mushrooms have sought program coverage. Sugar workers have qualified for program benefits.

It is believed that since many farm workers are migrant workers, they may not be able to qualify for benefits under present provisions of the law. The Congress may have an opportunity to change these provisions to cover the migrant worker case as a consequence of a bill expected to be marked up and reported by the Ways and Means Committee in this session.

Question: What would you think of expanding the scope of trade adjustment assistance legislation to cover displaced workers such as farmers?

Anwser: Except for the special problem of migrant workers, farm workers are presently covered by the trade adjustment assistance program.

RELOCATING WORKERS

Question: What experience have you had with attempting to relocate workers who lose their jobs due to shutdowns of large businesses?

What alternatives to relocation is the Labor Department pursuing to find jobs for workers adversely affected by foreign imports?

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Answer: Currently the Department has trade adjustment assistance and community development efforts in process for several communities involving layoffs from large employers.

In Youngstown, Ohio, Lackawanna, New York, and Sioux City, Iowa, the adjustment assistance program is providing immediate income maintenance support and the basis for implementing retraining programs to support community economic development efforts. These latter programs are the alternatives to relocation programs. Economic development efforts require many months and years before they can provide real employment opportunities.

In the above areas, very small numbers of workers are expected to take advantage of relocation benefits. Information has been provided workers on the recruitment efforts of a large out-of-state employer in addition to the normal labor market information available through the employment service offices in the respective localities.

HANDICAPPED IN PUBLIC SERVICE JOBS

Question: What percent of public service job enrollees are handicapped?

Answer: Handicapped persons represent 4.4 percent of all public service job enrollees under Title II, and 4.7 percent under Title VI of C.E.T.A.

Question: What is being done to increase the number of handicapped individuals in Labor Department employment and training programs?

Answer: The Department is constantly seeking available handicapped persons for employment in all of the Department's programs, as well as handicapped persons for opportunities in its employment and training programs. The Department works closely with the Department of Human Resources, District of Columbia, to find handicapped persons with available skills to encourage these people to apply for vacancies as they occur. Recently, the Department intensified its efforts to find jobs for veterans, and particularly for disabled veterans. These efforts, of course, are separate from C.E.T.A.

The President's Committee and Governors' Committees have actively sought to encourage prime C.E.T.A. sponsors to work with Employment Service offices and Vocational Rehabilitation offices in the states on projects serving handicapped people.

EMPLOYMENT OF THE HANDICAPPED

Question: What is the unemployment rate for handicapped people? Are there unemployment statistics for various categories of handicapped people?

Answer: There are several sets of figures. All point to the same conclusion: There is a greater proportion of handicapped people out of work than people without handicaps.

The 1970 Census included a five percent sampling of the population to learn about the population of handicapped people. It found that nine percent of the population--11,265,000--were handicapped, of which, 42 percent were in the labor force, at work or actively looking for work, compared with 59 percent of the total adult population-a 17 percent differential. Fifty-eight percent of the handicapped males were in the labor force compared with 76 percent of all males; and 24 percent of the handicapped women were in the labor force compared with 42 percent of all women.

In 1972, the Social Security Administration surveyed a sampling of adults on its rolls. Sixty percent of males with handicaps were employed compared with 95 percent of all males; and 29 percent of women with handicaps were working compared with 54 percent of all women.

There is a reason for the difference in employment statistics between the Census and the Social Security studies. Census was a cross-section of all of America, those at work as well as those not at work and not looking for work, such as students and retired persons and others. Social Security was a cross-section of workers with Social Security coverage, almost all of whom were work-oriented.

There are no accurate studies of the unemployment rates of individual categories of handicapped persons, but several voluntary health organizations have hazarded rough guesses. Epilepsy Foundation of America estimates a 25 percent unemployment rate for those with epilepsy; American Foundation for the Blind estimates close to 50 percent unemployment of blind persons; and National Association for Retarded Citizens estimates a jobless rate for retarded persons three times higher than others.

Question: Please give us a status report of the implementation of recommendations coming out of last year's White House Conference on the Handicapped.

Answer: As of February 6, 1978, the implementation plan of the White House Conference was being typed in final form by Moshman Associates, the contractor handling administrative details. After completion, it will go to the Secretary of Health, Education, and Welfare for his review.

The Commissioner of Vocational Rehabilitation recently announced plans to form a Federal Task Force to encourage implementation. If this Task Force is appointed in time it will be given the opportunity to review implementation plans in advance of publication, but the implementation plan will not be held up awaiting creation of this Task Force.

The H.E.W. Secretary and/or the Task Force are to review the plan, after which it will be published and considered a guideline for national consideration. This national consideration could take the form of Congressional action, action by the Executive Branch or action by non-Government organizations of various kinds.

In addition to this, the President's Committee on Employment of the Handicapped is going ahead with its own plans for implementation, involving employment. This includes evaluating recommendations dealing with employment to select those feasible for immediate implementation not needing legislation, not needing added funds; developing methods of implementation by staff, Committee members and representatives of States, working together; publishing plans of implementation and distributing them widely; and attempting to work out a system of voluntary reporting, to keep track of progress.

REGIONAL REPRESENTATIVES

Question: There are ten Labor Department regional offices, yet you will have only three Regional Representatives this year. Could you effectively use a Representative in each of the ten Labor Department regions?

Answer: The President's Committee has established six of its own regional areas, each consisting of eight or nine States, and does not go by those of the Department of Labor. This has proven to be a workable number for our State Relations staff to cover.

There are three Regional Representatives, full time. For the other three regions, staff people serve them from Washington, and also perform other duties. The Committee would prefer to remain at this level for the time being, in order to keep pace with, but not run ahead of, two major national trends.

One such trend is the beginning of growth of handicapped consumer organizations across the country. These have been inspired largely by the White House Conference last year. Many are in embryonic stages; many more are just beginning to develop a sense of their own identities; and are still shakey and tentative. In another two or three years the Committee predicts they will come of age and there would be need for additional full time Regional Representatives to work closely with them.

Another such trend is the growth of affirmative action programs under Sections 503 and 504 of the Vocational Rehabilitation Act.

A great deal of leadership has been exercised in holding national meetings on affirmative action and in encouraging the States to do likewise. Section 503 is just beginning to move into a new phase, on-site investigations on a small scale. Organizations covered by Section 504 are just beginning to come to grips with the dimensions of this program. These are slow developments and will come to full fruition in another two or three years, at which time regionalization could be considered.

MINE SAFETY AND HEALTH ADMINISTRATION

STATEMENT OF ROBERT E. BARRETT, ADMINISTRATOR

ACCOMPANIED BY:

JOSEPH O. COOK, ASSISTANT ADMINISTRATOR FOR COAL MINE HEALTH AND SAFETY
JOHN C. ENGLISH, ASSISTANT ADMINISTRATOR FOR EDUCATION AND TRAINING
MADISON McCULLOCH, CHIEF, OFFICE OF ASSESSMENTS
ARTHUR P. NELSON, ASSISTANT ADMINISTRATOR FOR METAL AND NONMETAL MINE HEALTH AND SAFETY
ROBERT G. PELUSO, DEPUTY ASSISTANT ADMINISTRATOR FOR TECHNICAL SUPPORT
THOMAS J. SHEPICH, DEPUTY ADMINISTRATOR
WILLIAM R. REISE, COMPTROLLER FOR THE DEPARTMENT
CHARLES E. PUGH, DIRECTOR, OFFICE OF BUDGET

OPENING REMARKS

Senator EAGLETON. The last item today is mine safety.

Mr. BARRETT. Mr. Chairman, I have a very short statement that I would like to present.

Senator EAGLETON. Sure.

Mr. BARRETT. It will give you an idea as to what we at the Mine Safety and Health Administration do and what our requests are for the 1978 supplemental and also the 1979 budget.

We appreciate this opportunity to appear before you for the first time to present the Department's mine safety and health program plans for the remainder of fiscal year 1978 and for 1979. This is our first budget request to this Committee for the Mine Safety and Health Administration.

Incidentally, as we go through our presentation we will probably be intermingling the terms MESA, and MSHA, which will be the new designation. M-S-H-A, Mine Safety and Health Administration.

Senator EAGLETON. You have broadened responsibilities, haven't you? Aren't you inspecting more mines?

Mr. BARRETT. Yes, Sir. I will be discussing that in my statement.

INTRODUCTION OF WITNESSES

I would like to introduce my staff.

Mr. Madison McCulloch, head of our assessments program;

Mr. Arthur P. Nelson, head of the metal, nonmetal program;

Mr. Thomas J. Shepich, my deputy;

Mr. Joseph O. Cook, head of the coal mine health and safety program;

Mr. John C. English, who is in charge of our educational program; and

Mr. ROBERT J. Peluso, our technical support leader.
The other two gentlemen are from the Department of Labor.
Senator EAGLETON. They are perennials around here.
Mr. REISE. We are part of the furniture.
Mr. PUGH. Good afternoon, Mr. Chairman.

OPENING STATEMENT

Mr. BARRETT. Federal efforts to promote mine safety and health extend back to 1910; however, a strong, active enforcement role was not played by Government until after the passage of the Federal Coal Mine Health and Safety Act and the Federal Metal and Nonmetallic Mine Safety Act.

The enforcement criteria of these acts were not consistent. The most important difference was the assessment of civil penalties against violations. The Coal Act had this provision, but the Metal/Nonmetallic Act did not. Congress recognized this inconsistency, as well as the inadequacy of the two laws, and took corrective action.

On November 9, 1977, President Carter signed into law the Federal Mine Safety and Health Amendments Act of 1977, Public Law 95-164. This act, for the first time, includes coal and metal/nonmetal operations together, and strengthens the Federal role in mining safety and health. It also transfers the Mining Enforcement and Safety Administration to the Department of Labor as the Mine Safety and Health Administration, MSHA, effective March 9, 1978.

The objective of MSHA is to administer the provisions of the Federal Mine Safety and Health Act of 1977, so as to achieve a safe and healthful environment in the Nation's coal and other mining operations.

Toward these objectives, we have active programs to encourage voluntary efforts to improve mine health and safety, including: Providing state-of-the-art solutions to problems of compliance with health and safety standards; developing education and training programs and training industry cooperative instructors; testing and approving all products that go into mines to insure that they are suitable for that environment.

We also conduct investigations and inspections of metal, nonmetal and coal mines in conformance with the new Act, to reduce the frequency of disabling accidents, and to prevent conditions that constitute hazards to the safety and health of workers. Appropriate standards are prescribed and promulgated. Enforcement procedures are implemented. Civil monetary penalties are assessed for violations of the act.

A supplemental request of $9,433,000 and 475 additional positions is requested for fiscal year 1978. Program increases of $5,733,000 are required for the added responsibilities of the new act for the remainder of the year, with the remaining $3,700,000 required to finance the October 1977 pay increase. This supplemental will permit us to increase Federal enforcement efforts through the development of more effective and more readily understood safety and health standards, a more frequent and comprehensive inspection program to insure compliance with standards, and affording the miner protection against discrimination or interference.

COMPARISON OF THE COAL AND METAL ACTS WITH THE NEW ACT

Senator EAGLETON. Let me break in there.

Basically, under the old act, you had coal mines and what other kinds of mines?

Mr. BARRETT. We operated under two acts; presently, we still operate under those two acts, and will until March 9. The Federal Coal Mine Health and Safety Act is a very strict, stringent piece of legislation that is very difficult to enforce, and has its problems in compliance so far as the operators are concerned.

We also operate under the Federal Metal and Nonmetallic Act of 1966, which is not a very strict piece of legislation, or restrictive, or whatever term we want to use, so far as enforcement and compliance is concerned. That is, the Metal Act only requires us to make one inspection of each underground operation per year, which is almost an ineffective law to work under.

For the first time, with the new act, we have the same types of inspections at both coal and metal and nonmetallic mines, both underground and surface.

Senator EAGLETON. As of March 9——

Mr. BARRETT. Yes.

Senator EAGLETON.That is what you will have?

Mr. BARRETT. Yes, sir.

NUMBER OF INSPECTORS

Senator EAGLETON. How many inspectors? Not down to the single digit. How many do you have now?

Mr. BARRETT. Well, we have about 2,000 people in the coal inspection program.

Senator EAGLETON. How many in the—I will call it the old law—metallic——

Mr. NELSON. About 600 people, of which we now have about 400 metal/nonmetal inspectors.

Senator EAGLETON. What are you seeking to go to?

Mr. BARRETT. Excuse me. We have 1,400 coal mine inspectors.

Senator EAGLETON. I thought you said 2,000.

Mr. BARRETT. That includes engineers, technicians, and support personnel.

Senator EAGLETON. Roughly 1,400 coal and 400 metallic?

Mr. BARRETT. Yes, sir.

Senator EAGLETON. What will that go to March 9?

Mr. BARRETT. We are asking for 475 positions, 263 of which will be in the metal/nonmetal program.

Senator EAGLETON. 263 there. And how many—the increment. You now have 1,400 coal, 400 metallic. What would you like to have in coal?

Mr. BARRETT. We would like to have 91 inspectors in our coal program.

Senator EAGLETON. Ninety-one in addition to the 1,400?

Mr. BARRETT. Yes, Sir. We have 1,400 in coal and request 91 more.

We presently have about 400 in our metal/nonmetal program.

Senator EAGLETON. What do you think you need in coal?

Mr. BARRETT. We asked for a few more in coal. Some of those positions will be used for the added responsibilities we have under the new law.

There is a provision, for example, that says we have to go into mines that liberate certain amounts of methane, on an accelerated basis.

ADDED RESPONSIBILITIES OF THE NEW ACT

Senator EAGLETON. That is what I want to get into.

In addition to giving you the much added responsibilities in metal, both surface and subsurface, what new responsibilities did we put on you in coal?

Mr. BARRETT. That is one of them there. Every mine that liberates 1 million cubic feet of methane in 24 hours will have to have an inspection every 5 days; for those that liberate a half million, it will be every 10 days.

Senator EAGLETON. These are telltale signs? These are warning signals?

Mr. BARRETT. Yes, Sir. There are mines that liberate that amount of gas, regardless. Some mines liberate 10 million cubic feet of gas a day. We are into those on an accelerated inspection program because they are the most dangerous. They have the greatest potential for disaster. So we have added responsibilities in coal in that area.

We also have added responsibilities in the areas of miners' rights. There are more rights for miners, more entitlements in that they can request inspections when they feel there is a danger of some type. Also if they feel they are being discriminated in hiring practices; that is, if they are discharged for health and safety reasons, or for other reasons regarding health and safety in which they have blown the whistle.

So we do have added responsibilities.

LOCATION OF INSPECTORS

Senator EAGLETON. In the major coal-producing areas, how far away would be a Federal inspector? An hour away, a day away?

Mr. BARRETT. We have about 150 to 160 different field locations where our inspectors are stationed.

We have tried to put our inspectors in the high density mining areas. We have field offices scattered throughout Appalachia. In Pennsylvania, we have, for example, about 11 field offices. In West Virginia, we have about 12 or 14. In Virginia, the same.

So we do have our inspectors near the mine sites. Because of the fact that we pay portal-to-portal as the mine operators do, we have tried to get our people as close to the operations as possible.

Senator EAGLETON. Do inspectors get portal-to-portal?

Mr. BARRETT. Yes. Incidentally, they are unionized, also. I would say the average inspector in the Appalachia region is probably within 30 minutes of a mine. So if there were a disaster call, we would have a man there within 30 minutes.

WORKSITE EXPLOSIONS

Senator EAGLETON. Are those OSHA people that are inspecting grain elevators? You know, we had a flurry of those in recent weeks.

Mr. BARRETT. Yes.

Senator EAGLETON. Is there anything they could learn from you about explosions?

Mr. BARRETT. Yes. I think our people have been interfacing with them in some areas. We have a group that specifically addresses mine explosions. That is, they are continually looking for ways to preclude the possibilities of mine explosions.

Mr. SHEPICH. As a matter of fact, Senator, OSHA requested from MESA some technical assistance during that recent occurrence.

Senator EAGLETON. Occurrences.

Mr. SHEPICH. Occurrences, yes.

Senator EAGLETON. I am sorry.

1979 BUDGET REQUEST

Mr. BARRETT. I will kind of gloss through this; hit the highlights.

Our request for fiscal year 1979 is for a total of $123 million and 3,951 positions. This represents existing program requirements and the full year funding of our 1978 supplemental.

Of the $123 million and the 3,951 positions for fiscal year 1979, $90,653,000, and 3,024 positions are requested for enforcement activities in both coal and metal/nonmetallic mines.

This activity provides for the development and enforcement of safety and health standards and programs throughout the mining industry, which involves more than 22,000 coal and metal/nonmetal mines.

As indicated by our supplemental request for 263 positions and $2,451,000, the new law impacts most heavily on our metal/nonmetal mine enforcement requirements. Prior to the new act, only one inspection annually was required. This applied to approximately 870 underground mines only. Approximately 15,000 surface operations had no inspection requirements, although by policy many safety inspections were made.

We now have the responsibility for conducting approximately 33,300 regular safety and health inspections, as well as numerous spot inspections and investigations annually in these noncoal mines. Full-year requirements for this program in 1979 total 927 positions and $27,492,000.

Standards development will receive increased attention during fiscal year 1979. We have long utilized the inspectorate for input into the standards-setting process, and will continue to do so.

These efforts will be coordinated by a small headquarters staff who will provide the consistency and continuity necessary for readable and effective standards within the limited time frame of the new act.

STATE VERSUS FEDERAL JURISDICTION

Senator EAGLETON. Is your jurisdiction seen by the States? We have a lot of Federal laws that say meat inspection, and what have

you. Up to certain standards they do the inspection, then the State would stay out. We have some arrangements.

Is any of that left around?

Mr. BARRETT. No. The Federal law says, in effect, that our law supersedes state laws. Under the present Metal and Nonmetallic Act we have had a number of State-plan States. But the State plans have not necessarily worked out to the advantage——

Senator EAGLETON. Are there some States, for whatever reason, that still continue to have their own mine inspectors?

Mr. BARRETT. Yes. Most of the Appalachian States continue to have a mine inspection agency. And most of the Western States.

Senator EAGLETON. Do you ever make joint inspections?

Mr. BARRETT. We have in the past, and may continue to do that in the future.

Senator EAGLETON. Are there some States that have inspection standards more stringent than the Federal's?

Mr. BARRETT. Not that I know of. Most of them are much less.

Senator EAGLETON. Why do they keep them? Is it just traditional?

Mr. BARRETT. Well, much of it is tradition. We recently met with the heads of 25 of the State mining agencies and discussed the provisions of the new law with them. A few of them have indicated that they may take their inspectorate and put them into an educational and training mode. We can assist the States in that area through our State grant program. That is, we have a certain number of dollars available to us to grant to the States for their inspection activities—or health and safety activities, I should say.

So, as I say, many of the State heads have discussed with us the possibility of getting into the educating, training, certifying, and qualifying of miners.

Senator EAGLETON. Go ahead.

STATE GRANTS

Mr. BARRETT. We have asked for $4 million in our State grant program. Although this is the same amount as last year, these funds can, for the first time, be applied to State metal and nonmetal mine safety and health programs. These grants are available to States for the purpose of developing and enforcing effective mine safety and health laws, improving workers' compensation and occupational disease laws and programs relating to mining, and promoting Federal/ State cooperation in improving mine health and safety conditions.

ASSESSMENT PROGRAM

We also have an assessment group. The objectives of our assessment program are to assess civil monetary penalties for all violations of the act consistently and in accordance with statutory criteria in a manner that will encourage compliance.

Prior to the new act, our assessment office processed 140,000 violation citations issued by coal enforcement personnel. In addition, operators and miners against whom penalties are assessed are given an opportunity to confer with assessment officials to determine whether the assessment criteria are properly applied.

At this conference, additional evidence may be offered which results in the initial findings being affirmed, increased, or decreased. Using this assessment/conference procedure, we have been able to settle, without adjudication, approximately 85 percent of all cases.

The new act stiffens the current coal mine penalty provisions by adding additional assessable offenses and reducing the time frames within which penalties must be processed.

In addition, it requires the assessment of about 130,000 metal/nonmetal violations that heretofore were not subjected to the civil penalty program. Thus, the assessment workload will increase by more than 100 percent to meet the increase in enforcement requirements, the reduced time frames and the inclusion of metal and nonmetal mine violations. So we are requesting a supplemental of $830,000.

EDUCATION AND TRAINING PROGRAMS

Our education and training programs encompass a wide variety of activities. We must assist mine operators to achieve training regulation compliance by developing course materials, by training, certifying, and monitoring industry cooperative training instructors, and by qualifying industry personnel required to conduct tests of work areas and equipment for hazardous conditions.

In addition, our education and training specialists supervise and conduct mine rescue training and contests, and provide specialized training for safety and health representatives of industry and organized labor. They also work closely with our inspection and technical support specialists in designing and conducting special accident prevention programs.

The new act also requires the Secretary to promulgate training regulations within 180 days after the effective date of the act.

Our request for 188 positions and $6,404,000 for education and training is the same as last year. It represents our current appraisal of resources needed to meet the requirements of the new act.

We view this program as having tremendous importance and intend to organize a strong effort including the cooperation of States. We think that training and education in safety and health is one of the best ways to save lives and prevent injuries.

TECHNICAL SUPPORT PROGRAM

Our technical support program is also of great importance. This organization is responsible for the statutory requirements relating to the approval and certification for use in mines of equipment, instruments, materials, explosives, and personal protective apparatus, and the collection, analysis, and publication of injury and illness data from the mining industry. It supports our enforcement programs by establishing technical criteria for environmental controls for health protection, weighs and analyzes respirable dust samples, and provides engineering evaluations of mine ventilation and ground control plans, power distribution, and illumination systems.

Providing mine rescue equipment and assistance for the rescuing of miners trapped in emergency situations is also included in this program.

Technical support specialists investigate problems of compliance with health and safety standards and recommend state-of-the-art solutions. Liaison is maintained with the Department of the Interior's Bureau of Mines, National Institute of Occupational Safety and Health, and other Federal agencies in the development and conduct of mine safety and health research programs, and the dissemination of research results to other segments of MSHA and the mining industry.

Our response capability for weighing and analyzing dust and other toxic material samples collected in coal and other mines must be increased, as mandated by the new act. The sampling and analysis load is expected to increase by over 20,000 samples this fiscal year. Accordingly, the supplemental includes 20 positions and $543,000 for part-year fiscal year 1978 costs in technical support.

The budget request for fiscal year 1979 includes 445 positions and $17,531,000 for technical support, and provides only for the full-year cost of the supplemental request. However, the act mandates new or revised standards for toxic materials and harmful physical agents. It is expected that the sampling and analysis load could increase by an additional 30,000 samples when these standards are implemented.

We will also be improving our data collection and analysis procedures to directly relate the safety and health experience of each mine to the training plans that we must approve for each mine operator.

PROGRAM ADMINISTRATION

The program administration activity provides effective executive direction and administrative management support for our safety and health programs. A total of $2,705,000 is requested for fiscal year 1979, an increase of $119,000 for employee compensation payments.

Mr. Chairman, this concludes my statement. We welcome this opportunity to answer any questions you and members of the committee have regarding our budget request.

INCREASED WORKLOAD

Senator EAGLETON. On behalf of the whole committee we wish you nothing but success on these expanded undertakings that have been assigned to you.

I am sure there is going to be a period where you may feel that you need additional help, as these duties may become more burdensome than originally anticipated.

Mr. BARRETT. Thank you.

Senator EAGLETON. Will your laboratory work go up in all this?

Mr. BARRETT. Yes.

I mentioned the increase in the numbers of samples we will be collecting and analyzing under the new act.

Presently we collect respirable dust samples in the neighborhod of 600,000 a year, respirable dust samples on the miners, and also from their environment.

Senator EAGLETON. Well, I have some questions from Senator Huddleston, and I will give them to you and ask that you supply those answers.

Mr. BARRETT. Fine.

MINE SAFETY AND HEALTH REVIEW COMMISSION

Senator EAGLETON. We have some questions concerning the new Mine Safety and Health Review Commission created by the recent legislation. Although created as an independent commission, I understand that the Labor Department has been providing technical assistance in preparation of its budget since permanent staff has not yet been selected.

Is that the case?

Mr. BARRETT. Yes, sir. I don't know that they are working on budget, but they are working on—

QUESTIONS SUBMITTED BY SENATOR EAGLETON

Senator EAGLETON. Well, I have some specific questions that we are also going to submit to you for the record.

Mr. BARRETT. Thank you.

Mr. PUGH. We will be happy to handle those for you.

Senator EAGLETON. Thank you, gentlemen.

[CLERK'S NOTE.—The justification material for these accounts appear in part of the House fiscal year 1979 Labor-HEW Appropriations Subcommittee hearing record.]

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

MSHA STATE GRANTS

Question: How much money has been provided for the State Grants program of the Mining Enforcement and Safety Administration for the current fiscal year -- and has that been sufficient to meet the needs?

Answer: $4,000,000 has been provided for the State Grants program for the current fiscal year. This sum has been allocated to meet requests from 18 coal-producing States and appears to be sufficient.

Question: What will be the impact on the State Grants program now that metal and nonmetal mining has been brought under MSHA?

Answer: The new Act states that the Secretary shall provide for an equitable distribution of sums appropriated for grants to States, except that no less than one-half of this sum will be allocated to coal-producing States. At a recent meeting with State mining departments, there was a great deal of interest expressed from metal and nonmetal mining States.

Question: Will this require additional funding either for the current fiscal year or for FY 1979?

Answer: We are receiving requests from metal and nonmetal States and also requests from coal-producing States for additional funds. We are in the process of reassessing our needs for funds for State Grants under the provisions of the new Act. Until this is completed and we have further dialogue with each State that is interested, it is too early to assess our total dollar requirement for this program.

Question: Would you assess the role and impact of the State Grants program on mine safety efforts.

Answer: In the past, those States receiving State Grants funds have made a significant contribution to health and safety in the mining community of that State. There will probably be a larger role for them to play in the future considering the emphasis on education and training mandated by the new Act. At a meeting held earlier this year, most of the States indicated that this was the area (education and training) of most concern to them.

Question: Do you have any other comments to make on the State Grants program relative to the 1979 budget?

Answer: We are assessing the needs based on requests being reviewed and anticipated being received after the effective date of the Act (March 9, 1978) and it may well be necessary to request additional funds after this assessment.

SHIFT OF MESA FROM INTERIOR TO LABOR

Question: MSHA officially becomes part of the Labor Department in March. What have you been doing to assure a smooth transition?

Answer: The Department of Labor and MSHA have been working together since the new Law was signed by the President on November 9, 1977. The new Act is effective March 9, 1978.

All administrative actions necessary to establish the Mine Safety and Health Administration as an entity within the Department of Labor are progressing on schedule.

A manual for use in training mine inspectors has been completed and classes have already started at the National Mine Health and Safety Academy in preparation for implementation of the requirements of the new Act on March 9.

The Charter for the Advisory Committee required to review safety and health standards for metal/nonmetal mines was executed by the Secretary of Labor on January 5, 1978. Proposed mandatory standards are required to be sent to the Secretary within 180 days and we anticipate that this requirement will be met.

Draft regulations to implement the mandatory training requirements have been prepared and are currently under internal review. This review will be concluded by February 15. The regulations will be ready for the Advisory Committee in early March. Promulgation date is slated for September 9, 1978.

Actions are underway to extend the automated penalty assessment system used for coal to include metal/nonmetal mine violations and will be completed in March.

To ensure that the necessary additional workforce requested for the new enforcement provisions of the Act will be available, recruitment efforts are underway in 32 towns and cities in 14 States. We, of course, cannot bring these people on board until Congressional action is taken on our supplemental budget request for FY 1978.

In summary, we believe that with the timely approval of our supplemental budget request, we will be in a position to implement the important features of the new Act during this fiscal year.

Question: What impact will the shift have on the job duties and grade levels of current MSHA Civil Service employees?

Answer: The shift of MSHA from Interior to Labor will not impact on the job duties and grade levels of the current MSHA workforce. Section 301(c)(1) states that the transfer of personnel shall be without reduction in classification or compensation for one year after such transfer.

DEPARTMENT OF LABOR IMPLEMENTATION

Question: MSHA was criticized by workers when it was under the Department of the Interior's administration because the inspectors were considered dominated by the operators and insensitive to workers. In what ways do you think that, overall, the the Department of Labor will do a better job of administering the Mine Safety and Health Administration than Interior did and what are the major ways in which the organization of the Mine Safety and Health Administration is expected to differ from that of OSHA?

Answer: It would be wrong to make a direct comparison of MSHA with OSHA. Although the objectives of the 1970 OSHA Act and the 1977 Mine Safety and Health Act are similar, there are significant differences between the two. Likewise, it would be difficult to make a direct comparison between the administration of the old mine safety laws by the Department of the Interior with the administration to be expected by the Department of Labor.

The question of the existence of an inherent conflict of interest in the Department of the Interior arising from the dual responsibility of that Department to both promote the economic interest of the minerals industry and enforce the mine safety and health laws has been discussed extensively. In fact, it was this alleged conflict that led the Department of the Interior to establish the Mining Enforcement and Safety Administration as a separate entity from the Bureau of Mines.

During Congressional hearings in both the House and Senate, proponents for improvements to mine safety legislation argued that the creation of MSHA as a separate agency within Interior still did not remove the inherent conflict. Their position was basically sustained by the Congress when it enacted the Federal Mine Safety and Health Act of 1977, which included the transfer of the mine safety and health enforcement functions from Interior to Labor.

Without belaboring the past, we are confident that the Department of Labor will administer the provisions of the new Act for which it has responsibility in a manner which will assure that the miners receive the greatest possible protection under the law.

Improvements in the 1977 Act, such as an accelerated rulemaking procedure, increased inspection frequencies, increased emphasis on occupational health, expanded enforcement provisions including more stringent penalties for noncompliance, and the provision for mandatory training regulations for underground and surface mine employees, should all contribute to the desired improvements for miner safety and health.

MINE FATALITIES

Question: How many mining fatalities have occurred in each of the last five years?

Answer: The mining fatalities for the last five years for both coal and noncoal operations is shown below:

	COAL	NONCOAL	TOTAL
1973	132	175	307
1974	132	158	290
1975	155	123	278
1976	141	113	254
1977	138	131	269

Question: How do you propose to reduce the number of fatalities in underground metal and nonmetal mines?

Answer: After years of decline, fatalities in underground mines showed a sharp increase during the second quarter of 1977. All of the increase occurred in underground metal mines and was concentrated in limited areas of the country. As a result, MSHA implemented a special program that included shifting emphasis and inspection personnel to these mines and areas. The result of this special program not only stopped the increase, but actually reversed the trend during the second half of the year. We will continue to watch the trend closely and shift our efforts to where they are needed.

With the additional inspectors we are requesting and the additional deterrent of civil penalties against violations and the mandatory training requirements under the new Act, we are hopeful that fatalities and injuries in the mining industry will continue to decline.

HEALTH STANDARDS

Question: A big problem under the Metal and Nonmetal Act was lack of health standards. How are you proposing to develop and quickly adopt health standards to cover the multitude of toxic substances in the mines?

Answer: There are three aspects to the problem. First, we already have exposure standards for many toxic substances found in the mines. Such additional requirements as medical examinations, operator sampling, recordkeeping, and personal protection required in the 1977 Act could be added rapidly to many of these exposure standards. We will need some support from NIOSH to do this, but we hope to do it rapidly. Second, there are criteria documents developed by NIOSH for general industry that recommend reductions in some of these exposure standards. We will review these criteria early with NIOSH to determine the feasibility of enforcement in mining. Third, other substances that we do not now know exist in mines at potentially harmful concentration need to be investigated. This responsibility has been given to NIOSH by the Act, but we intend to work closely and expeditiously with NIOSH to determine criteria and develop standards where necessary.

TRAINING

Question: Will all of the 475 new staff be trained at the MESA Academy?

Answer: All of the training required for the new staff will be accomplished by the Academy and the planning and preparation for this training is already in progress.

Question: Does MSHA and the Academy have the capacity to train 475 new people in a year?

Answer: The Academy has the capacity to house 343 students and classroom space to train up to 1,000 students simultaneously. All of the 475 new personnel will not be going through their training at the same time so the Academy does have the capability to perform this training within one year.

Question: How much is budgeted for training costs, compared to last year?

Answer: All of the training of the new employees will be done at the Academy. The cost of this training is included in the budget request for the Academy and will be provided at no additional cost to MSHA other than the cost of travel and per diem.

Question: What kind of training facilities do you propose for your inspectors to improve their ability to detect and counteract dangerous conditions in the mines?

Answer: The training facility to be used for the training of the inspectors will be the National Mine Health and Safety Academy in Beckley, West Virginia. The Academy has and will continue to be the focal point of our inspector training.

Question: How are you going to organize the training and frequent refresher courses which the new Law requires for miners?

Answer: The training for the inexperienced miner must be done before the miner begins productive work. In most instances, this will be done by cooperative (company) instructors in a part classroom/part on-site situation. Training material may either be company, MSHA, association or privately produced training material meeting certain predetermined requirements. In some cases, the training may be done at Vocational/Technical schools, Community Colleges, private contractors or State instruction under the State Grants program. In a very few instances (when no other means is available for some smaller companies) MSHA will assist in parts of the instruction.

It is expected that the frequent refresher courses will be done mainly by company cooperative instructors. This instruction may be incremental and thus have a more significant impact. They may wish to give the required hours at one time; however, on an incremental basis they will be able to set up training throughout the year to meet problem areas as they are identified or indicated, either by the company, the union or MSHA.

SUPPLEMENTAL

STAFF REQUIREMENTS OF NEW LEGISLATION

Question: How many of the 475 additional jobs requested are required to carry out specific provisions of the new MSHA legislation?

Answer: All of the 475 new positions relate directly to the mandated requirements of the new Act. These new positions will be utilized for increased enforcement and assessment activities as mandated, increased health work required by the Act, and the increased requirements of standards promulgation and employee protection against discrimination as called for in the Act.

HIRING SCHEDULE FOR NEW STAFF

Question: If Congress approves your request for 475 new MSHA jobs, what is your anticipated hiring schedule?

Answer: If the Congress approves MSHA's request for 475 positions and the supplemental is passed in early April, MSHA would anticipate the following hiring schedule:

April	75
May	100
June	105
July	100
August	75
September	20
Total	475

The hiring schedule above assumes passage of the Supplemental Appropriations in early April, if the actual passage of the Supplemental is earlier or later, this schedule will be adjusted accordingly for full utilization of the available funds.

In anticipation of timely approval of our Supplemental request, we have organized a recruiting effort in 32 towns and cities across the country for additional inspectors, concentrating in areas where mines have recently closed.

Question: How many of these jobs will be in field offices and, specifically, at which locations?

Answer: Of the total MSHA request of 475 positions, it is currently anticipated that 26 positions (20 for standards development and 6 for special assessments) will be located in the Arlington, Virginia, office and the balance of the request, 449 positions, located in the field as follows:

Coal Enforcement

Wilkes Barre, PA	2	Pikeville, KY	18
Pittsburgh, PA	10	Barbourville, KY	17
Morgantown, WV	12	Vincennes, IN	6
Mt. Hope, WV	10	Denver, CO	3
Norton, VA	9	Madisonville, KY	4

Assessments

Wilkes Barre, PA	8	Dallas, TX	12
Uniontown, PA	3	Denver, CO	14
Madison, WI	14	Phoenix, AZ	12
Birmingham, AL	12		

Metal and Nonmetal Enforcement

Pittsburgh, PA	38	Dallas, TX	55
Birmingham, AL	42	Denver, CO	35
Duluth, MN	45	Alameda, CA	48

Technical Support

Pittsburgh, PA	10	Denver, CO	10

MINE SAFETY AND HEALTH REVIEW COMMISSION

Question: What do you see as your role in improving the image of mine safety enforcement among miners?

Answer: The Commission, like the Office of Hearings and Appeals of the Department of the Interior has done in the past, will provide a forum for hearing contests from mine operators and miners concerning health and safety violations and penalties in the mining industry. The primary difference between the Interior system and the new Commission's is that the Review Commission is an independent agency and not part of the cabinet agency having the initial inspection and enforcement responsibilities. This independency and total separation from the Department of Labor should enhance the image of mine safety enforcement as well as preserve due process and instill more confidence in the review procedures.

Question: How will the Commission and its workload be organized?

Answer: The Commission will be organized to meet its two primary functional or program requirements. First, it must provide for Administrative Law Judges to hear contests, make findings of fact and issue decisions based upon those hearings and facts. The Administrative Law Judge function will constitute one part of the organizational structure of the Commission. The Commissioners have the responsibility to review decisions of the Administrative Law Judges on their own initiative as well as in response to petitions for review from the public. This is the second major functional responsibility for the Commission and constitutes the remaining organizational entity.

Question: How will your organizational structure differ from that of the Occupational Safety and Health Review Commission?

Answer: There are several differences. First, the OSHA Review Commission is comprised of three Members who sit as a full body. This Commission has five Members and is able to delegate the powers of the Commission to any three Members with two Members constituting a quorum. Because the Federal Mine Safety and Health Review Commission does not have to sit as a full five-Member Commission, it should be able

to process its workload more expeditiously and maintain only a minimum inventory of cases. Second, while the Commission may direct an ALJ decision for review, it can only do so for reasons which are clearly defined in the Act. These criteria, both for review after granting a respondent's Petition and for review on its own motion, should limit the number of cases directed for review and, hopefully, will eliminate a large backlog developing.

Question: What real changes will the Commission make from the current appeals procedure under the Interior Department?

Answer: One of the major changes the Commission will make from the current appeals process under the Interior Department will be to eliminate processing Dismissal Orders for settlement of proposed penalties at the direction of the Solicitor. Beginning March 9, 1978, all settlements, after an operator contests a proposed penalty, will have to be approved by the Commission. In the past, these settlements were negotiated with little or no ALJ or Board of Appeals input and resulted in some criticism of the settlement process and the results. Another major change is that the review of ALJ decisions must be based on specific criteria which we discussed earlier and cannot be "de novo." This requirement precluding de novo review places greater emphasis on the Administrative Law Judge's responsibility. Finally, probably the most significant change in the appeals process is the establishment of the Commission as an independent review agency. The present "Interior process" constitutes a review by the Secretary, the same Secretary who has overall enforcement responsibility. This fusion of functions of enforcement and review has been one of the more controversial issues involving the review process and was of primary importance in determining that an independent review agency was appropriate.

Question: How quickly do you expect to process cases, compared the the current procedure?

Answer: We would expect that the Commission will be able to process cases much more quickly because of the streamlined review requirements established by the Act. The elimination of de novo review and the requirement that any review will require an affirmative vote of at least two Commissioners before such review can be taken, will limit the number of cases directed for review and thereby speed up the overall process. It will depend on what rules of procedure and policy decisions the Commission imposes, but we are optimistic that cases will be processed more quickly compared to the current procedure.

Question: What impact does the degree of success in settling cases before they go to full hearings have on your budget and workload?

Answer: The incidence of settlement before the Interior Office of Hearings and Appeals is substantial and, we understand, has been due in large part to the authority of the Department of Interior Solicitor to settle cases and forward them to the Office of Hearings and Appeals for the issuance of a Dismissal Order. No approval of the Office of Hearings and Appeals was required. With the establishment of the Review Commission as an independent agency, settlements after an operator contests a proposed penalty will be subject to Commission approval as defined in Section 110(k) of the Act. The Act states, "No proposed penalty which has been contested before the Commission under Section 105(a) shall be compromised, mitigated or settled except with the approval of the Commission. . ." We are hopeful that the Commission will continue to honor settlements made between the parties. The extent to which the Secretary of Labor and his Solicitor continue with settlements, will be an important determining factor on the number of cases that go to full hearing. We have tentatively projected that the level of dismissal orders, cases not requiring full hearing, will remain about the same as has been experienced in the Interior Department. If our projection for settlements and Dismissal Orders prove to be low, it will probably be necessary for the Commission to request additional funds to conduct full hearings for these cases.

Question: What was the amount of the budget request to OMB for the Review Commission, compared to the fiscal year 1979 OMB allowance?

Answer: Initially, the Department of Labor included in its 1979 estimates $2.5 million and 50 positions for the Review Commission. This initial estimate was the Department of Labor's best guess, based on little information and without knowledge of what would be transferred from the Department of the Interior. Subsequently, the OMB determined that the total position or personnel requirement for the Commission would be 81 positions. The net increase for 1979, then, would be the difference between these 81 positions and whatever was to be transferred from the Department of the Interior. At that point, the Department of Labor officials and the OMB Examiner determined a reasonable funding requirement to support those 81 positions. The result of those calculations is reflected in the 1979 budget and, therefore, a direct comparison from the original 50 positions and $2.5 million to the 1979 request would be meaningless. We are hopeful that the OMB allocation of 81 positions and the joint OMB/Department of Labor funding estimates will be adequate to meet the Commission's requirements during the remainder of FY 1978 and FY 1979.

SUBCOMMITTEE RECESS

The subcommittee will be in recess until 10:45 a.m., Tuesday, February 7, when we hear from ACTION.

[Whereupon, at 4:44 p.m., Friday, February 3, the subcommittee was recessed to reconvene at 10:45 a.m., Tuesday, February 7.]

DEPARTMENTS OF LABOR AND HEALTH, EDUCATION AND WELFARE AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1979

TUESDAY, FEBRUARY 7, 1978

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 11:05 a.m. in room S-128, the Capitol, Hon. Lawton Chiles presiding.

Present: Senators Chiles and Brooke.

ACTION

DOMESTIC PROGRAMS

STATEMENT OF SAMUEL W. BROWN, JR., DIRECTOR

ACCOMPANIED BY:

MARY E. KING, DEPUTY DIRECTOR
JOHN R. LEWIS, ASSOCIATE DIRECTOR FOR DOMESTIC AND ANTIPOVERTY OPERATIONS
HELEN KELLEY, DEPUTY ASSOCIATE DIRECTOR FOR OLDER AMERICANS VOLUNTEER PROGRAMS
MARGE TABANKIN, DEPUTY ASSOCIATE DIRECTOR FOR VISTA/EDUCATION PROGRAMS
EMERSON MARKHAM, DIRECTOR, BUDGET OFFICE
MARY LEYLAND, ASSOCIATE DIRECTOR, ADMINISTRATION AND FINANCE

OPENING REMARKS

Senator CHILES. This morning we will hear from witnesses representing the ACTION Agency. We have with us the new Director of ACTION, Sam Brown.

Mr. Brown has taken on a challenging assignment. ACTION has been a controversial agency since its inception in 1971, and part of the controversy has been over the proposed mission of the Agency.

ACTION's organizational structure has been much debated. Reorganization has been a way of life at ACTION.

Since taking over, Mr. Brown has initiated an extensive review of the Agency's operation—by a volunteer board of citizens and management consultants. The results are quite interesting and should provide ample information for improving the operation of the Agency.

Now, whether the ACTION budget reflects the findings of that review, however, remains to be seen.

PREPARED STATEMENT

We welcome you, Mr. Brown, and you may introduce your colleagues and then proceed with your opening statement.

[The statement follows:]

PREPARED STATEMENT OF SAM BROWN, DIRECTOR, ACTION AGENCY

Dear Mr. Chairman and members of the committee, it is again my pleasure to appear before you.

Our requests in the budget submission for fiscal year 1979 reflect changes and important improvements in the work of ACTION's staff and tens of thousands of volunteers. Some of those changes are already underway and others are proposed in this budget.

ACTION's mission is to mobilize volunteers to apply the great energies of the American people to solving the immediate problems of their own communities and to helping those of their fellow citizens whose needs are greatest. That work, we believe, is the most satisfying that any citizen can do and we find millions of Americans already involved and more who are willing. The $131 million requested for ACTION's domestic operations in the fiscal year will be applied toward the goal of assisting those citizens already engaged, and toward insuring that many more will be encouraged to participate directly. The request before you represents an increase of $11.3 million over the current level of activity.

This budget represents significant increases for VISTA, a program that we are revitalizing. The $38.5 million we request will permit a 26 percent increase in the number of volunteers and also increase the amount spent on training them for their assignments. Volunteers are now being assigned by ACTION to grassroots organizations controlled directly by those who are to be served.

In addition, supplemental appropriations for VISTA are requested in the amount of $1.4 million to increase by $25 a month the end-of-service stipend received by volunteers. This stipend, now $50 a month, has not been increased since 1965. This supplemental request includes a food and lodging allowance increase of about 6 percent. The total increase for VISTA in fiscal 1979 is $11.7 million, assuming the implications of the supplemental request for this year is passed by Congress.

In consultation with more than 100 private voluntary organizations and local community groups, ACTION has reorganized its system of assisting and supporting their activities into a new Office of Voluntary Citizen Participation. This office is becoming a center for assistance to national and community-based voluntary efforts to help them improve the quality of life for millions of citizens. Former Peace Corps and VISTA volunteers who wish to continue their work following their full-time service with us will also be assisted through this effort. We are requesting $3.3 million for this office in 1979, an increase of $2.3 million over the funds being spend for these efforts in the current fiscal year.

We are asking Congress for $3.8 million to conduct a National Youth Service study and to explore with great care the public policy issues involved. We believe that direct involvement of young people in meeting the problems and needs of their own communities will encourage lifelong commitments to community service and will lead as well to personal growth of the young men and women who participate.

We have begun in fiscal 1978 and will continue our work in short-term volunteer projects under part C of title 1 such as those that allow businessmen and women to help a community with a particular transportation problem or a specialist to assist with recovering from a natural disaster. We have also begun efforts to supply small grants to communities attempting to mobilize for a specific emergency. We are strongly committed to the ideal that our role is that of facilitating rather than managing these efforts. This budget requests $2.0 million for demonstrations in this area.

In two categories of the budget before you, we have requested less money than in the current fiscal year. Both reflect our belief that changes in the direction and organization of existing programs can strengthen them in the future.

Education programs have been discontinued in the university year for ACTION in favor of stressing technical assistance and development of other service-learning models. Our judgment and the judgment of our citizen review panel is that the UYA program was not succeeding primarily because institutions sponsoring UYA programs had inadequate plans to continue the programs after withdrawal of funds

and that it failed to attract the participation of low-income and minority students. The youth challenge program is being merged with the national student volunteer program to allow it to operate more effectively. Total expenditures in service learning programs projected in fiscal 1979 are $605,000.

We will strengthen ACTION's volunteer program for older Americans during fiscal 1979. This is a major undertaking and one that will require a great deal of my time and that of the staff of those programs. During that period we have asked the funds totaling nearly $58 million for older American volunteer programs which include small increases in the foster grandparent program and the senior companion program and a decrease in funds for the retire senior volunteer program.

I am concerned that ACTION's largest program for older volunteer (RSVP) incorporate into its mission that RSVP volunteers should serve those most in need and more of the volunteers themselves should be drawn from low-income and minority groups. These views are shared by some members of our citizen review committees. ACTION must avoid merely funding what would be done anyway. RSVP should provide new opportunities for service. The decrease in the request for funds for RSVP recognizes that this needed redirection will result in starting new projects and in continuing only those current RSVP programs which are serving those whose needs are greatest and most immediate.

We intend RSVP to become a model program that is run by, as well as for, older Americans. We intend to work with and provide assistance to our current project sponsors on programs designed to meet basic human needs. We must increase our commitment to project sponsors so they will know that resources are available to them for designing and operating volunteer programs on the basis of impact within the community. These goals, I believe, best serve the interests both of volunteers and those with whom they work.

The modest increases requested for foster grandparents and senior companions reflect our judgment that these two programs are already providing these opportunities and can continue to expand.

In these and ACTION's other programs this coming year, we will apply broad common criteria that stem from our desire to meet basic human needs of people—needs for adequate health, nutrition, and skills. Overall, our budget is designed to strengthen recruitment, selection, training, management, and evaluation in order to insure support to staff and volunteers in meeting the awesome challenges that face our people.

INTRODUCTION OF ASSOCIATES

Mr. BROWN. Thank you very much, Senator.

On my furthest right is Mary Leyland, who is the Associate Director for Administration and Finance in the Agency; Mary King, the Deputy Director, whom I believe you know; Emerson Markham, who is the Director of the Budget Division of the Agency; Margie Tabankin, who is the Director of VISTA, Volunteers in Service to America; John Lewis, who is the Director of Domestic Operations in the Agency; and on the far end, Helen Kelley, who is the Director of older American volunteer programs.

Senator CHILES. Helen, I don't know how you got so far down there in the boondocks.

Well, I think the older American programs rate down there, from what I see in your budgets. Maybe she is closer in than she even should be, from what I see of the funding for that program.

Ms. KELLEY. I consider this the head of the table.

Senator CHILES. We're going to try to move you above the salt.

GENERAL COMMENTS

Mr. BROWN. You have a prepared statement from me, but if I may I would like to take just a couple of minutes and talk informally about some of the things that we're doing that can be more accurately reflected just by talking about them briefly, if I may.

It has been an interesting year, the last year. When I came to the agency nearly a year ago now, the mail to the Agency, for instance, was running about 125 letters a month. Since last March, on the average it has been over 150 letters a week—which has, to say the least, put something of a strain on us just keeping up.

Volunteer inquiries, in response to direct mailing and classified ads, this year are up 28 percent over a comparable period last year.

As you mentioned in your introduction, we have undertaken a substantial review, involving not only citizens in a number of areas—which I think may be the first time a Federal agency actually asked citizens to look at its programs and judge them from the ground up—but also involving 10 of the major accounting firms and management consulting firms who gave us their time to look at the regional offices.

Since then, we have eight new regional directors in those regions. We are beginning the process of moving the authority of the Agency from the regional level closer to the community, down to the State level. And yet, we anticipate doing that in a way that will protect employees in keeping with the President's commitment to protect and enhance the position of career employees in any reorganization.

Our plan shifts program approval from that regional level down to the State level. As a former State official, I must say I would have welcomed an opportunity to actually go to a Federal agency and get a decision, and not have somebody say: Well, it needs to go here, and there, and then someplace else before a decision could be given.

And we hope to be able to move a great deal of our program authority to that level, so that response to the community can be quicker. At the same time, it strengthens—particularly in the older Americans programs and in VISTA—the national program offices, so that there is in fact a greater degree of program technical assistance and program support at the national level with the program authority at the State level.

We have undertaken a number of administrative changes internally. We are very privileged to have Mary Leyland, who is with us today. She is a career bureaucrat. She was the highest ranking woman in the Director's Office at the Environmental Protection Agency before she accepted an appointment by the President to the position which she now holds. The Senate confirmed that appointment.

She has managed, in the 8 months she has been here, to reduce the Agency's accounting codes by 40 percent; to bring our codes into compliance with governmentwide codes; and to computerize the volunteer placement system. This has replaced a good deal of pencil and paper work, and, we think, has substantially speeded the process up.

Overall, we have tried to provide more opportunities for volunteers who come from minority backgrounds, who are older Americans, and who have a broad rather than a specific technical background.

Beginning next month, we will have a new Director of the Office of Recruitment and Communications, Larry Brown, from Massachusetts. In March, he will begin a campaign to provide the kind of

program identity that Peace Corps, and VISTA, and older Americans programs once had, but which to some extent have been lost in the past years.

Because we feel basic human needs and the impact of the volunteers on those needs are the unifying thrust of this Agency, we prepared our budget based on how best to address those basic human needs.

And you will see, in addition to the material included as the normal part of the congressional presentation, we have broken out what the volunteers are doing, by need area, as well as simply by number of volunteer years.

It was my very strong view that number-of-years does not tell you much, unless you know what it is people are doing.

VISTA

The VISTA budget, which you have before you will result in an increase of almost 64 percent in the end-year volunteer strength for fiscal year 1979; a 26-percent increase in volunteer years of service provided during that year; and a shift toward more volunteers working in health, nutrition, and in economic development particularly.

OLDER AMERICAN VOLUNTEER PROGRAMS

Of the Older American Programs, the program of which you are probably most aware, and I say "most aware" not because it is, we think, the most visible of the programs, but because it has been most controversial in terms of the funding levels recently, is the Retired Senior Volunteers Program.

We anticipate a budget, and have recommended to you a budget for the coming year, which is a substantial decrease from the current budget, down by $4.7 million, or approximately 23 percent.

We are attempting to insure that it is a program not only for older Americans—that is, one that simply serves older Americans as volunteers, although that, itself, is very valuable—but also one "by" older Americans, in which older Americans participate in the design and operation of the program. We do not want a program in which older American volunteers are put into "make work" projects, but one in which they are given the opportunity, greater responsibilities, and are encouraged to accept real responsibilities in their communities.

I think it is a reflection of our view that older Americans are not the people for whom "busy work" needs to be found, but people for whom meaningful opportunities to serve in the community are necessary. And we believe we can develop more of those programs.

This approach is, in short, a turn away from "volunteerism" as an end unto itself, to volunteerism as a way of accomplishing social objectives at a cost which is very low, and which provides an opportunity for people to genuinely serve other people in the community.

RETIRED SENIOR VOLUNTEER PROGRAM

Senator CHILES. Well, that statement indicates you have got to cut $4.6 million out of the program to get those kinds of ends, or to

have a program that is not only for older Americans, but in which they participate.

I don't know why. I wish you would explain to me the rationale and the logic behind that.

Mr. BROWN. If I left the sense—that we have to cut it in order to get there—I didn't mean to. Because certainly we could get there at the current budget level, or even at an increased budget level.

We believe we can get there at the decreased budget level which is available to you. But certainly, at other——

Senator CHILES. So, it would not cut $4.6 million, though?

Mr. BROWN. Not in order to get there; that's correct. This is what we intend to do with the program. The budget which you see reflects the cut—but the reduction and the change in direction should be kept as separate items. They are different in my mind, and, I would hope in the committee's.

The foster grandparents, as you know, and senior companion programs retain essentially current-level fundings. They are up slightly, but essentially those are increases to maintain the program at its current level, and, does not anticipate increases in the size of the program.

OFFICE OF VOLUNTARY CITIZEN PARTICIPATION

There is a new office presented in the budget—the Office of Voluntary Citizen Participation. It is largely a result of requests from private-sector organizations with which we work—with several hundred organizations over the past month; everything from the Red Cross and the Boy Scouts, to a number of grassroots community organizations. And it is clear that the Government can legitimately play a role in providing technical assistance and service to those private-sector voluntary organizations.

The Office of Voluntary Citizen Participation proposes to bring together a number of elements already existing in the agency, as well as a substantial increase in technical assistance, and in small grants to help those organizations that need $3,000 or $4,000 or $5,000, that tiny little bit of money which in development terms will hopefully help them reach the takeoff point.

It also provides funding to insure that we in fact fulfill the congressional mandate, to encourage former volunteers to remain involved in service to their community, after completion of service.

We think that that has been one place where the agency has fallen down badly for many of its returned volunteers, from both the Peace Corps and VISTA.

UNIVERSITY YEAR FOR ACTION

As you know there is a proposal before you for zero funding for university year for ACTION. We believe that the existing design for university year for ACTION essentially eliminates, or restricts severely, participation by the low-income volunteers and volunteers out of the minority community.

A requirement for a 12-month service term conflicts with the academic year. The restriction on regular class attendance makes it impossible for many people to join. As a consequence, we cur-

rently have contracted with the Educational Testing Service to develop alternative models for service learning programs.

We believe very strongly that service learning programs in which the educational experience of the student, and the opportunity to serve in the community are linked, can be very valuable.

We do not believe that the university year for ACTION model is the best one to pursue. But, simultaneously, we have asked for and anticipate continuing the National Student Volunteer Program.

NATIONAL YOUTH SERVICE

Finally, there is a major additional request of $3.8 million for a study of National Youth Service. The detail is provided in the budget. And of course additional detail is available—and I want to come back to that in a moment.

There are four areas, of additional activities and upon which we have been asked to work by the President.

URBAN AFFAIRS

The first of those is in urban affairs. It reflects a very strong belief by those of us at the ACTION Agency that cities are revitalized not simply by new programs from the Federal Government—although those have their role—but are revitalized as the neighborhoods in which people live, regain their balance as people, participate in the development of their own community and when there is an opportunity for service in that community.

As a consequence, at the direct request of the President we are participating in developing the volunteer- and community-participation components of his proposal—which will be coming to the Congress on an urban program which is to be available on March 15.

RURAL AMERICAN

Second, in rural America, we believe that much of the experience that Peace Corps volunteers have had abroad, and some of the lessons that we have learned in agricultural development abroad, will permit us to work more with the needy in rural America. We are looking at a series of models for coherent domestic rural programs which are not scatter-shot, but which can be replicated in various places.

CRIMINAL JUSTICE

Many of the most isolated people in our society are those who have come in contact with the criminal justice system; and one of the great losses of those people is the kind of human contact for which volunteers are particularly well suited. Volunteers would be there not because they have to be, but because they want to be; and they are there to have a one-to-one relationship, not to be a part of the overall structure of the penal institution.

So, consequently, 2 months ago we held a conference on community criminal justice with participation from people involved at the community level, academic experts, former prisoners, and others to

talk about the role of volunteers in criminal justice, and a report from that should be available sometime later this week.

NATIONAL YOUTH SERVICE

Finally, and I will conclude simply by commenting on one additional program, and that is the national youth service.

I mentioned earlier—the research program which we are undertaking for next year—but I would like to come back to what we are also doing this year.

It is reflected in the budget, although it is not funded directly by ACTION; it is funded through an interagency agreement with the Department of Labor for a national youth service demonstration project.

I believe very strongly that in many ways the opportunities to serve society in peacetime should be provided in the same way that the expectation and the opportunity has been provided in wartime in the past. Moreover, our communities need that service and need that help.

Beyond that, a great many young people simply never have the opportunity to obtain the discipline, the service orientation, the opportunity to reach out to other people in a positive way that can be provided by a national youth service.

We are, consequently, beginning this year a demonstration project in one city which will provide an opportunity for young people to work in service occupations in the community. The young people will be primarily assigned to private-sector voluntary organizations, as Outreach workers, with the anticipation and the hope that the research which we will do next year will tie directly to this work, and at the end of that time we would have a coherent model. Obviously, there are many decisions yet to be made in the administration about whether to propose a program in that area to the Congress; but we would at least have done the homework, and have done thoughtful analysis that would make it possible for us to come to the Congress with a well-researched design program in national youth service, so that Congress could review the decision of whether this program is a desired national program.

With that, I conclude, and I will be happy to respond to any questions you may have, Mr. Chairman.

VISTA

Senator CHILES. I know that the major increase in your budget is for the VISTA program. What is the rationale behind that?

Mr. BROWN. Well, it starts, on the simplest grounds, which is that it is a program that has worked. Nearly 50,000 people now have served in VISTA over a period of time. The volunteer allowances are still remarkably low, averaging under $4,000 a year per volunteer. And yet we have many, many capable, qualified people of all ages, not just young people, who want to have that opportunity to serve in their community.

It is a program which permits the kind of service orientation that involves people in the life of the community, and at the same time we hope and think that the designs that we have been pursuing will go beyond that, that is, it won't simply be a service

opportunity in which it is a one-on-one service but in which the independent, uninstitutionally based volunteer can provide an opportunity to help communities create their own capacity for self-sufficiency and not simply continued dependency.

There are a number of examples of that: In Kansas City the Social Action Committee of 20, which has been doing housing rehabilitation. The volunteers have been working with neighborhood residents in low-income neighborhoods doing training in basic plumbing and electricity. They have worked with the construction trade unions there so that we don't get cross-waves from the unions, to try and provide skills so the people in the community can upgrade their own housing rather than simply becoming dependent on some additional program or allowing the housing in which they live to further deteriorate.

In the South Bronx, volunteers working with community organizations, such as the People's Self-Help Redevelopment Corp., have also been working in housing rehabilitation.

The interesting thing is that it appears, from the statistics we have, that VISTA volunteers generate resources in the community with which they work equal to about 10 times the amount that the Government pays the VISTA volunteer. The Government spends about $4,000 in direct costs on that VISTA volunteer, and it appears that over $40,000 of additional resources are generated in the community because of the volunteer. That is a terrific return on the Government's investment in the people and the fact that those volunteers go on back into their home community with a different attitude about what they want to do, is also a social bonus.

We think it is money very well spent, as does the President. That is why you see a request for substantial funds there.

Senator CHILES. And the VISTA volunteers, do you anticipate for the 11.7 percent increase——

Mr. BROWN. It will be about a 26-percent increase of volunteers in the years of service, and an—end-strength increase of about 64 percent. It is 1,165 additional volunteer years funded.

Senator CHILES. How many elderly volunteers participate in VISTA?

Mr. BROWN. About 15 percent of all the VISTA volunteers are older American volunteers. An interesting footnote on that statistic is that the participation of men among older VISTA volunteers appears to be substantially higher than in the nonstipended programs for older volunteers. Most of the older American volunteer programs tend to be heavily women—about 80 percent to 20 percent in favor of women.

Helen, is that right? About 80 percent women and 20 percent men?

Ms. KELLY. Yes.

Mr. BROWN. About 60 percent of the older VISTA volunteers are men. No one is quite sure why. Everybody has speculated about it, but no one is quite certain why. That is out of proportion with the population.

Senator CHILES. What special programs to provide for the elderly do you anticipate in your VISTA additional programs?

Mr. BROWN. There are several things: Some cooperative programs between VISTA and older Americans. Maybe it would be better if Marge would talk about this.

Ms. TABANKIN. In the 1979 budget we are predicting that 21 percent of our volunteers will be working with older American poverty population projects, so that we are concentrating on that.

In one community, for example, 300 businessmen have been brought into an alliance to give discounts to senior citizens. It is an elderly organization that responds. It's a younger VISTA volunteer working with older people.

In other programs we have transportation in rural areas to hospitals and clinics for checkups. In the south we have a meals-on-wheels program that the VISTA volunteers have organized.

And in New England, I believe, we are about to fund a project that is primarily directed at organizing community volunteers, elderly community volunteers, by using one elderly VISTA volunteer and one young VISTA volunteer.

WINTERIZATION PROJECTS

Senator CHILES. What emphasis would be given to expanding the number of the volunteers working in the home winterization project?

Ms. TABANKIN. Well, we have a great deal. We are trying to coordinate that with the Department of Labor CETA program and with CSA, because that is where most of, as you well know, the appropriations have gone for the materials. And we wanted very much to make sure that our volunteers are working where the materials are.

We have, on both levels, with the elderly Americans—one of our major targets is fixed-income elderly housing units where the VISTA volunteers would be doing more direct service than in other cases, on weatherization, for example.

In projects that are not elderly directed, we would take the approach of teaching community volunteers how to do weatherization, making use of CSA materials, so that an individual volunteer might not do 30 or 40 houses within a year, but train 50 people how to do their own, or 100 people how to do their own; whereas, in elderly communities the volunteers themselves would work with CETA workers in doing that.

And we have ongoing discussions right now with the CSA, as you may have seen in the submission to the Congress, about a possible intensive effort over the summer to primarily focus on an energy weatherization corps that would be VISTA volunteers focusing on primarily fixed-income people's weatherization problems.

Senator CHILES. Senator Brooke.

Senator BROOKE. Of course, weatherization is being transferred to the Energy Department. What does that mean as far as VISTA is concerned?

Ms. TABANKIN. I think the role of the volunteers is needed, and I think it doesn't matter whether it is the CSA or Department of Labor or the Energy Administration as to who would actually——

Senator BROOKE. Wherever the materials are, you would work with them?

Ms. TABANKIN. Yes; we could not provide that kind of in-kind support. That has to be obtained from either the community or the Federal Government.

Senator BROOKE. Mr. Brown, I'm very pleased to meet you. You have a very long and distinguished career for such a young man. I remember very well your work on the Vietnam moratorium and your service in your own State of Colorado.

You are going in several new directions. How do you evaluate the service so far? Are you frustrated or disappointed?

Mr. BROWN. To be in this position is inevitably a combination of those things. There are some things that are terribly frustrating at times, and we have run up against walls and say, "Why can't we do it that way? And I don't understand why these rules seem to impede it." And at other times I am incredibly pleased with what can get done.

In many ways, I regard myself as the most privileged person in town. Everybody else, it seems, has more money, but we have a resource that we work with that is different than anybody else. We've got people, really committed people, and every place you look, in all of the programs, they are just good people. The volunteers—people who want to volunteer, by and large, are people with a degree of commitment and interest and enthusiasm.

And I would say that I've gotten done less than I would like to have gotten done in the first year, and more than some of my friends in Washington thought could have been done.

So, I suppose I will live with that. It is not where I'd like to be.

CONFLICT OF INTEREST

Senator BROOKE. You've had a little criticism in some press statements relative to conflict of interest in the deputy's office. Some of the people working within the organization are also involved with ACTION grantees.

Would you care to comment on that?

Mr. BROWN. Sure. Happily.

The first one of those that you refer to is the question between Mary and me and whether we get along with each other. And I think there was some anticipation—we both have reputations, at least, of being reasonably strong personalities, and we came walking into an organization that had its problems over a period of years, and I think there was some anticipation that we would be right at each other's throats. That simply has not happened. We have had a much better working relationship than I have had with anybody.

Mary will have to comment for herself, but I feel very good about it. It has worked out very well. Our strengths seemed to have complemented each other, and our weaknesses seem to be covered, to some extent, by the other person. Altogether that has simply not been a problem.

There has been a good deal of press speculation about this, and I suppose it is a juicy thing to speculate about, but it has not happened.

Now, the conflict-of-interest question, about which there has also been a good deal of press speculation, primarily in the same place that speculates about Mary and me.

Senator BROOKE. That is the Gerson Green question.

Mr. BROWN. That's right. There's an extended report available, which I would like to make available to the committee, if I may, to insert in the record.

But I can summarize it very briefly by saying when it came to my attention there was a potential conflict of interest because a consultant for the Agency was also on the board or staff of a potential grantee from the Agency, I immediately asked the general counsel to make a detailed review of the situation. He reported that there had been no violation of the conflict-of-interest laws.

However, I felt strongly that the appearance of conflict of interest is at times as bad as the genuine article, and there was a clear appearance there. He had been around the agency. His organization had been awarded a grant while he was on board as a consultant, even though he had been uninvolved in the process of obtaining it.

I felt strongly that that was inappropriate, and, as a consequence, the grant in question was canceled by me. It left us, frankly, high and dry on some manuals that were being done for the older American volunteer programs which were being very well done.

That is part of the cost paid for keeping the process as aboveboard and open as possible. It is public money, and it ought to be treated carefully.

There is, as a result of this, a proposal from the agency general counsel now being circulated which goes substantially beyond Federal regulations or the regulations of any other agency with regard to actual and apparent conflicts of interest. We anticipate adopting new rules which will be published and then adopted by the Agency, which go dramatically beyond what any other agency has done.

Senator BROOKE. Are you satisfied, as a result of your investigation, that there was actually no conflict as such?

Mr. BROWN. I am confident that there was no violation of the conflict-of-interest regulations or law.

Senator BROOKE. Ms. King, do you have anything to say?

Ms. KING. I have lived in Washington long enough to understand that the press is uncontrollable and will write what it wants to write. There has not been a shred of truth in any of the stories about conflict, and we have never been queried directly by the press about it ourselves. If we had been, we would have responded as we have today.

Senator BROOKE. It never came to you prior to the printing of the stories?

Ms. KING. No; the press has never said, "What is the situation? How do you divide the work? Is the relationship compatible?" And Senator, I might add that our relationship is philosophically and operationally compatible in every way.

OLDER AMERICAN VOLUNTEER PROGRAMS

Senator CHILES. I've been chairing some field hearings in Florida, particularly in some rural areas, and I continue to hear that, without the support of the RSVP and the senior companions and other volunteer programs, the direct service programs such as home health, home-delivered meals, Outreach—those would not

even be able to function on the limited basis with which they are now functioning. I keep hearing in my State that there is a great need for many more volunteers in these programs, especially RSVP, and certainly green thumb, which is one of the programs—not under you all— but does operate in rural areas.

Are there people waiting to get in these programs? Are there project requests that are going unfunded right now? What is your estimate of unmet project requests?

Mr. BROWN. Mr. Chairman, the numbers, we believe, of the unmet needs are dramatically understated in the numbers which we have available. We have discouraged people coming in and sitting on a waiting list, because, frankly, the turnover in the programs is quite small, and a long waiting list may be interminable and the individual may never be reached without additional funding.

We know that there are 8,700 people on waiting lists, now, to be foster grandparents, and approximately 56,000 potential clients that are not now being served as a result of the absence of those volunteers, but are on the project waiting list.

We know that there are 1,900 older Americans on the waiting list for the senior companion program, which is about two-thirds of the present size of the program. About 35,000 potential clients are on waiting lists of the already-funded projects which have needs that cannot be met.

In addition, a series of polls indicate that currently the best estimate is there are between 9½ and 10 million potential volunteers, older American volunteers. That is out of a total older American population of about 31 million.

In fiscal year 1979 about 220,000 RSVP volunteers will serve. In short, we would be reaching well under 2 percent of the potential RSVP volunteers with the program, the people willing, able, capable of serving. In foster grandparents and senior companions, the situation is much the same—about 2 percent of the potential volunteers in foster grandparents—are now able to be funded at current or anticipated funding levels. That's out of a population of approximately 4 million low-income older people.

We believe approximately 500,000 of those would be able and capable of serving in each of the programs, and at this point we have a total of about 16,600 in the two programs.

So, by magnitude of either need or eligible population, we are nowhere close to what it could be.

Senator CHILES. What would you say would be an adequate level of funding to meet those program growth needs in RSVP and the senior companions and foster grandparents?

Mr. BROWN. Mr. Chairman, in addition to the budget which was received for RSVP, we proposed to the Office of Management and Budget an additional budget at the current services level of funding. Additionally, we indicated two enhanced levels for RSVP which did not represent a request but were merely an indication of possible expansion the program could accept in fiscal year 1979.

RETIRED SENIOR VOLUNTEER PROGRAM

Senator CHILES. Well, looking at the OMB request of $20,200,000 in RSVP, what was that?

Mr. BROWN. That is the current level of request. The budget request to OMB was put together at four levels: One, a minimum services, the level below which you would simply say that it would be better to cancel the program than to continue it—that was the level at which, in fact, RSVP is being proposed in the President's fiscal year 1979 budget.

The second, current services, which is the $20,200,000 level, simply maintained the current level of involvement. And then there were two increments above that, which were levels at which we could run the programs, given the opportunity to run them, that is, in which we could develop the administrative capacity and in which we felt the need was justified. And those two levels, as I suggested, were approximately $25 million and approximately $36 million. After consideration of our various program priorities and the budgetary contraints of the administration, we did not formally request more than a current services level for RSVP.

Senator CHILES. And in senior companions, and in foster grandparents?

Mr. BROWN. There is an additional $42 million in the senior companions program, and an additional $17.8 million in the foster grandparents program. We believe the need would justify the additional funding at these levels.

These are, as you know, not the levels recommended by the administration.

Senator CHILES. It would appear to me the potential for all of these programs—especially RSVP—to help urgent manpower needs in rural areas is largely unexplored. How many volunteers are now working in rural areas? And do you have plans for increasing this involvement?

Mr. BROWN. Helen, do you have a breakdown? Or should we provide that information to the Chairman, later?

Senator CHILES. I would be glad to have it for the record.

Ms. KELLEY. It would be more accurate if we did provide it.

[The information follows:]

At least one-third of the older American volunteers function in primarily rural areas. Recent studies show that older American volunteers are not only providing many essential direct services to unfortunate, isolated individuals in rural areas where few services exist, but are also stimulating more local interest and support to serve those with unaddressed needs. ACTION would increase older American volunteer program involvement in rural areas should additional moneys become available.

RSVP REDUCTION

Senator CHILES. If we cut the RSVP program, do you think the local communities will be able to continue with the projects? Where is their funding going to come from?

Mr. BROWN. There has been a remarkable growth from 10-percent local share to 37-percent local share in the current RSVP budgets. In the case of some RSVP programs that already exist, they are in moderate-income communities where there is additional capacity in the community to pick up some of the expenses of those programs as a local share.

In other cases, there would undoubtedly have to be cuts in the program, and a reduction in the total number of volunteers, par-

ticularly in those communities with the least capacity to fund internally.

Senator CHILES. Well, of all of your programs, basically there is a little bit of an increase for foster grandparents and senior companions, and RSVP is the only one that is really cut.

Mr. BROWN. And, University year for ACTION, Mr. Chairman; but of the older American programs, you are correct.

Senator CHILES. Why would RSVP be taking that cut?

Mr. BROWN. Well, there are a number of reasons for it. I will be candid with you about the evaluation problems that we have had in the past.

First, there were, at times, the sense that those funds were supporting activities which would have existed anyway. And, that spending Government money on activities that would have gone on in any case, isn't a particularly good expenditure of taxpayers' money.

We know, for instance, that in some cases in order to get the numbers up, essentially local projects were raided. Other groups were sort of brought in and given the title RSVP.

Second, it was my understanding of congressional intent that we should make more effort to reach into minority communities, and low-income communities—communities which don't have the infrastructure of volunteerism which frequently exists in other communities, or where it isn't as strong.

It appeared to us from the citizens' review and other reviews of the project that we had not taken that mandate as seriously as we think we should have. As a consequence, we weren't able to justify that we were actually doing what we were supposed to be doing.

Third, the program had been run largely as an element of—on behalf of the volunteers—that is, it was a program to insure that people had an opportunity to work without much attention to what it was they were doing. As a consequence——

Senator CHILES. I still have a hard time understanding that as a reason for cutting the funding. When you just told me how much project requests you have, how much unmet needs you have, how much demand is out there, that seems to be all things of management function, reorienting or changing a program. But, again, you are now giving me that as a reason for cutting the program.

Mr. BROWN. Well, what I'm suggesting is that, because of that, we did not frankly have the materials prepared to justify and make the budget justification as strongly as we might be able to.

Now, we have got an RSVP survey underway in the evaluation currently.

Has that form come back, yet?

Ms. KELLEY. No.

Ms. TABANKIN. It is at OMB.

Mr. BROWN. We anticipate having a formal review of RSVP by the evaluation division in order to demonstrate in fact what we are doing.

SUBMITTED QUESTIONS

Senator CHILES. Mr. Chairman, I have some other questions. If I could submit those——

Senator BROOKE. Certainly. And I intend to pursue the RSVP question.

Mr. BROWN. We will be happy to answer those, Senator.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

RETIRED SENIOR VOLUNTEER PROGRAMS

I am told every time I chair a field hearing, particularly in rural areas, that without the support of RSVP, Senior Companions and other volunteer programs, the direct service programs such as home health, home delivered meals, and outreach--would not be able to function. I also hear repeatedly that there is a great need for many more volunteers in all these programs--especially RSVP.

Are there people waiting to get into the programs? Are there project requests going unfunded now? What is your estimate of the unmet requests?

Answer:

Yes. A recent survey of Older Americans Volunteer Program projects shows approximately 1,900 persons on waiting lists to be Senior Companions and 8,700 waiting to be Foster Grandparents.

While we do not encourage formal requests for projects where we do not have available funds, many communities have requested information and consideration for future funding. There are several applications on file at the regional offices but they are few in number, compared to the inquiries received.

Question:

What do you think Retired Senior volunteers should be doing?

Answer:

A high priority for Retired Senior Volunteer Program volunteer assignments should be directed toward reaching out and helping people in communities who are underprivileged, isolated, handicapped, troubled or vulnerable. Areas of need addressed by Retired Senior Volunteer Programs should include: economic sufficiency, individual rights, home health care, nutrition, education, energy and discrimination.

Question:

What are they doing now?

Answer:

A recent survey of RSVP projects show volunteer activities in the following basic human need areas:

Health/Nutrition	97,200
Knowledge/Skills	31,725
Economic Development/Income	12,668
Housing	1,215
Energy/Conservation	922
Community Services	79,492
Legal Rights	1,508
Other	270

Question:

How does this work differ from what ACTION would like to see?

Answer:

ACTION would like to see an increase in high priority activities. Also in the future Older American Volunteer Programs will target on community needs rather than solely on volunteer activities. In the belief that Older Americans have the capabilities and the interest to address many of the unmet human needs in our communities, emphasis will be placed on more meaningful roles for retired senior volunteers in service to their communities.

Question:

Most volunteers I hear from count the opportunity they have to spend their time in a useful way as a major asset of the program. Do you believe this is a proper program goal?

Answer:

Yes, RSVP is a dual purpose program. It is aimed at both the gains of the community and the Senior Volunteer from useful volunteer service. ACTION wants to strengthen the quality of the volunteer experience. ACTION finds that the greater the significance of the volunteer service to the community or the clients served, the greater the satisfaction to the RSVP volunteer providing this service.

Question:

What are Senior Companions and other older volunteers doing to help the homebound elderly?

Answer:

Sixty-two percent of the Senior Companions serve homebound older people. They are helping older people with physical and mental health limitations to continue living in their own homes. This is facilitated through: (1) peer/socialization support; (2) assistance in daily living activities; (3) assistance and encouragement in (rudimentary) health maintenance under the supervision of a skilled care provider; (4) observation and reporting to appropriate professionals on a client's condition; (5) advocacy and linkage of clients with appropriate community services.

RSVP volunteers are also helping the homebound through friendly visiting services. Such assignments do not always provide the degree of one-to-one support afforded by the Senior Companion Program but do provide significant social support to these individuals.

QUESTION:

VISTA Involvement with the Elderly.

(1) How many elderly volunteers participate in VISTA?

(2) Do any of your plans for VISTA include special programs to serve the elderly?

ANSWER:

VISTA Legislation (§107) demands that the program encourage the "fullest participation of older persons and older person membership groups as volunteers and participant agencies".

A 1977 survey revealed that 21% of VISTA projects are involved in programs designed to serve older people living in poverty.

As of January 1, 1978, 15% of all VISTA Volunteers were fifty-five years of age or older, including 184 persons who are seventy and older.

Projects reported the many kinds of efforts on behalf of poor people who are older: 43% social service delivery; 21% public assistance advocacy; 13% in transportation; 20% health services/nutrition; and 12% housing/energy conservation.

Examples of projects designed to serve the elderly include the Milwaukee Association in Urban Development where VISTAs have been involved in establishing an outreach program to provide transportation services to needy elderly individuals. VISTAs are also working to publicize the problem of substandard nursing home care in Milwaukee County and are taking steps toward improving these conditions.

In Memphis, Tennessee, seventeen volunteers are working with the Metropolitan Interfaith Association to serve the needs of Senior Citizens. Their efforts have focused on development of a resource center for the elderly, supervision of the development of a country-wide home-delivered needs program, transportation, housing repair services, and the provision of ancillary support and advocacy to those who are receiving public assistance but still have unmet needs.

Nine VISTAs in El Paso, Texas have been serving the needs of senior citizens through the development and the implementation of a senior citizen discount program in El Paso County which is working in conjunction with three hundred businesses. Volunteers have established a senior citizen homebound visitation program using telephone or home visits to reach some forty homebound senior citizens per month throughout the city of El Paso.

On the average, VISTA projects serving the poor generated almost $45,000 in benefits accruing to the poor, including assistance in the areas of health, income, housing and community services.

Question:

Should the Senior Companion Program be expanded?

Answer:

Given the magnitude of need and the low annual federal cost of maintaining a Senior Companion ($2,400), this program represents a cost effective solution to reverse the current trend towards premature institutionalization of older persons.

In our estimation the current use of volunteer resources clearly demonstrates the viability of the Senior Companion Program as part of a national strategy to assist many homebound elderly in the community.

Question:

What potential do you see in this area?

Answer:

The potential for Senior Companions to help homebound clients maintain independent living in their communities is limited only by their current members.

There are 2.8 million homebound older persons with chronic health care problems who can benefit from the services of a Senior Companion. The program is currently serving 10,500 of this number.

The General Accounting Office report on Long Term Care, the 1977 Senate Committee on Aging "Report on Alternatives to Institutionalization" and the 1976 Regional Hearings on Home Health Care point up the need of persons to provide socialization and health services to the homebound elderly who otherwise would have no alternative but to go into an institution.

VISTA AND PUBLIC AGENCIES

Senator Brooke [presiding]. Before I get to RSVP, if I may go back to the line of questioning on VISTA and pursue it just a bit further:

How many VISTA volunteers currently work for public agencies?

Mr. Brown. About 10 percent work for State governments, but I thought other governmental units were slightly higher than that.

Ms. Tabankin. It is about 11 percent who work for other public agencies, if you include CSA and local CAP agencies, it's an additional 11 percent. About 10 percent work directly for State governments.

The breakdown works out that "other governments" is 9 percent—that is either county or municipal; "State government," as I said, was 10 percent; "community action agencies" is about 12 percent; "tribal councils," which depending upon how you define them, as local government, are about 30 percent.

That is really the breakout in public agencies.

Senator Brooke. Now, is there any evidence that public agencies might not be actually augmenting their services, but rather substituting VISTA workers for regular public employees?

Mr. Brown. There's every evidence, Mr. Chairman, that at times VISTA volunteers have been used to substitute for employees at the State and local government level. We disapprove of that.

Senator Brooke. I am glad that you disapprove, Mr. Brown, but what are you actually doing to minimize this potential substitution of Federal funds for local resources?

Mr. Brown. We have, in fact, issued a new set of guidelines with regard to the use of VISTA volunteers in the future which will effectively prohibit the use in regular Government employment of VISTA volunteers.

Senator Brooke. Give me specific examples.

Mr. Brown. Of where it is happening?

Ms. Tabankin. We just closed down a program in Honolulu with the city of Honolulu's public library service. We found we were funding seven librarians over a 7-year period of time to do Outreach work.

Every year they came back to us and said: Well, by next year we will institutionalize and hire these people as librarians. And each year we kept refunding.

This year, we have phased them out. We will wait until the last volunteer is off the project, because we just don't want to rip people in and out of projects; but that project is being phased out, and it is an example of many.

Mr. Brown. Has the Iowa Civil Rights Commission been terminated?

Ms. Tabankin. That is also in a phaseout process.

Mr. Brown. It is one where the legislature refused to appropriate the funds for adequate lawyers, so we provided them.

Senator Brooke. Well, I think the intent of Congress is crystal clear on that; and I trust that you will continue, and expand, your efforts to see that this does not exist.

We stand behind you wholeheartedly, and trust that you will continue to move in that direction.

Mr. BROWN. Thank you.

Senator BROOKE. Now, if we might get back to the RSVP. You said earlier that the citizens review committee recommended an expansion of the entire retired senior volunteers program purpose, to serve more minority and low-income people and to provide more meaningful community service opportunities for senior volunteers.

Again, first for the record: Why, then, is there a reduction in the request for this program, from $20.1 to $15.4 million——

Mr. BROWN. I would think I would have to——

Senator BROOKE [continuing]. In view of that recommendation?

Mr. BROWN. I think I would have to tell you, in all candor, that we simply have not been able to make the case persuasively that all of the funds which are being spent are in fact going into those places where it is our understanding that the congressional intent is clear.

And absent that, we are not able to come to you with an increase—even though I believe, as you do, that the potential of older Americans to provide real service in the community is virtually unlimited.

Senator BROOKE. Well, couldn't you redirect RSVP without reducing the level of funding?

Mr. BROWN. We would be happy to do that, given the opportunity.

Senator BROOKE. I think I get the message. You do have many areas presently unserved by any RSVP projects, do you not?

Mr. BROWN. That is correct.

Senator BROOKE. And your request to OMB was what?

Mr. BROWN. It was $89.8 million, altogether, for all of the older American programs. But, of that amount, as I recall, approximately $15.4 million was the minimum level for RSVP; and $20.2 million was the current service level. Is that correct, Helen?

Ms. KELLEY. That is right.

Senator BROOKE. Now, with that cut, say we take the budget request, rather than your request to OMB, what projects would you cut?

How would you spend that money? Just what projects would you choose to terminate?

Mr. BROWN. Well, the standards for cutting would be clearer than for which projects to cut. The standards would be those in which there was the greatest local capacity for support of the project if Federal funding was terminated. That would mean, essentially, in middle- and upper-income communities where there are other resources available.

Second, those in which there is the least clear direction of what it is the volunteers are doing. That is, the least clear statements with regard to the needs of the community and the value of the volunteer's contribution to community needs.

Third, we would hope in many cases to allow attrition, which runs about 20 percent per year—is that correct, Helen?

Ms. KELLEY. Right.

Mr. BROWN [continuing]. Of the volunteers?

Ms. KELLEY. That is a hard figure to be absolute with.

Mr. BROWN. To take up a part of that. That is, just as people dropped out, we wouldn't pay for additional. We would just allow the staff to attrit along with it, as necessary.

Our experience has been a growth of about 5 percent per year in the total number of volunteers, with a constant level of funding. That is, the projects have managed to get more volunteer service out of the same budget each year, and we think that some of the budget cut could be made up for by a growth within current levels. However, the RSVP directors tell me, rather forcefully, that they're up against the limits; that that balloon has blown up about as far as it will go.

Senator BROOKE. Now, your own evaluation, and the citizens' committee's evaluation, made recommendations regarding recruitment of minority and low-income senior volunteers, more training and technical assistance for both staff and volunteers, and better ACTION Agency coordination.

What steps are you taking to follow up on those recommendations—both your own, and the citizens' commissions?

Mr. BROWN. If I can start with a general comment, and then go by program, if I may.

First, a general comment that it is harder to do and more expensive than simply picking up whoever walks in the door. If you have to do more outreach, more training, it costs more money.

And there has been tremendous pressure in the past—I'm not sure of the origin of it—to get the numbers up; to, every year, pump the numbers up; to get more and more people in. And, in that kind of pressure situation, the first thing you cut out is training, staff support, outreach minority involvement, and so on, and that is exactly what has happened to the programs.

So, in order to build the support structure, to make the program that we have stronger, it would be necessary for us to cut the volunteer number some. That is essentially the argument which we make with regard to both VISTA, and incidentally, the Peace Corps—that is in fact what we should do; that we should get out of the numbers game of how many volunteers you have, and begin to talk about the quality of the volunteers' efforts.

Consequently, I have to say, in all candor, that within the current budget for RSVP, that would be an extremely difficult task, and not one that I could promise to the committee that we could accomplish.

In VISTA, there are substantial additional resources anticipated for training and supervision; and the recruitment office itself is working much more strongly on minority recruitment for VISTA.

I feel very comfortable that low-income, locally recruited volunteers—minority volunteers, and older American volunteers—can be increased in VISTA.

Senator BROOKE. Has there been any increase?

Mr. BROWN. Marge, do you want to talk about where we are in VISTA?

Ms. TABANKIN. In training?

Mr. BROWN. In increases in recruitment.

Senator BROOKE. Of minorities.

Ms. TABANKIN. I think we will be in a better position to know in June. Our massive recruiting drive for the next fiscal year's volun-

teers is going to begin on March 1. The numbers have ranged anywhere from, at their low, 10 percent, to what is now about 15 to 20 percent, with probably this month being 22 percent minority volunteers.

So, I think we are clearly within the high range of what the monthly statistics have been, but the major minority campus oriented recruiting drives, and community recruiting drives are not going to begin until March 1.

Mr. BROWN. I was going to comment on the process. The person who is responsible for that recruitment, you may know: Larry Brown, from Massachusetts Advocate. He ran the Massachusetts Advocate until recently. Larry has a very strong and deep commitment about minority recruitment and has begun, among other things, to attempt to hire more minority recruiters, which is one way to do that work.

Second, he plans to work much more closely with minority schools. He met with the deans of 27 predominantly black schools about 6 weeks ago, to talk about how that recruitment campaign place more recruitment advertising in minority publications, and about more use of minorities in the recruitment advertising itself.

One of the things we discovered is that, particularly in the Peace Corps, a great many people thought: Well, that is a sort of nice thing for white middle-class kids to go off and do. And we are trying to make it very clear that, both with older American volunteers—who we have found to be some of our most successful volunteers and with minority volunteers, that we are interested and anxious to recruit.

So, it is really a structural answer, rather than a statistical one, but I would be happy to provide the numbers for the record about that.

Senator BROOKE. I wish you would.

[The information follows:]

LOW PARTICIPATION BY MINORITIES PROBLEM

Our major recruiting and awareness campaign which begins in March does focus on the problem of low participation of minorities. Activities planned include: Minority campaigns in five major cities; involvement of black agency staff in both recruiting and awareness activities; media coverage through the National Black Press; and media coverage through minority broadcasters.

Following the above campaign in September, is a major minority advertising campaign focusing on awareness and recruiting needs. This is a combined campaign aimed at the VISTA and Peace Corps programs. It will include television, radio, and print media activity.

Senator BROOKE. Because the recommendation, in the case of RSVP, was made in October of 1976 by your own evaluation team, I would be very interested to see what progress has been made in that.

And I would also ask you what is your targeted percentage, say by June of 1978? You said your major recruitment drive would have been completed by then, and you would be better able to give us some figures then.

What figures do you anticipate?

Ms. TABANKIN. I would say we would like to get up to at least 25 percent within this fiscal year.

I just noticed, now, that we are anticipating, if everybody enters as planned, in the next month to have about 22 percent of our volunteers being minority, as opposed to 18 percent.

So, we are fairly rapidly going up. I should say, though, that that has been done through a locally recruited mechanism, primarily; that has not been done through the national recruiting efforts. The reason that the numbers have been so high is we have allowed the local recruiting levels to exceed what we would like them to be. We are up to 68 percent locally recruited, as opposed to 60. We hope that that minority balance will shift, as well, with our recruitment drive, so we won't have to always rely on local sponsors to be the finders of minority volunteers.

Senator BROOKE. I have been personally very much concerned about the lack of volunteer transportation, particularly in RSVP, not only in my own region, but across the Nation.

What are you doing to alleviate this problem? And have you budgeted an additional amount for volunteer transportation in the fiscal 1979 budget?

Mr. BROWN. The answer to the second question is yes, we have budgeted additional funds, and in the case, particularly, of VISTA, the budget for next year is up about $400,000 in additional volunteer transportation.

Senator BROOKE. What will that enable you to do?

Ms. TABANKIN. It is going to be primarily focused on the rural areas. It will enable us to give grassroots organizations—well, starting from the premise that most of our projects will again be grassroots that we newly fund and are not public agencies—public agencies have been able to provide more transportation benefits. When we go to a grassroots programing system, we cannot expect them to all have cars, et cetera, so that we would be able to award transportation grants to grassroots sponsors to either reimburse volunteers for the mileage they have driven or else, in fact, provide them with either leased or GSA cars. And we will target that very clearly to primarily rural areas where cars are most needed, to grassroots sponsors where they can't afford to purchase cars.

Mr. BROWN. I might say with regard to the older volunteers that we are aware that title III of the Older Americans Act specifically mandates transportation as one of the services that is to be provided. Even though it is not directly our legislation, we have taken that as congressional intent with regard to older American volunteers and have tried to look for ways to provide—for instance, RSVP's, to provide transportation services for older Americans.

Senator BROOKE. I hope you will direct your efforts in that direction, because there is a great need for that. I'm sure you're aware.

Let me turn for a moment to the National Youth Service. Now, your budget request includes $3.8 million for development of a National Youth Service model. What is that exactly?

Mr. BROWN. There is in the budget some detail with regard to it. This year we will be undertaking, with the Department of Labor, an opportunity for approximately 1,650 young people in one city to engage in community service, primarily under the supervision of private sector voluntary agencies in the community. We hope this will reach substantially beyond what is normally creamed off by the employment programs which never—at least in the literature I

read—quite reach to the hardest core of the unemployed, by going at it a different way around. That is, by saying everyone could be eligible and that we will have adequate resources to make it possible for everyone in that community.

So, we have chosen a community with a population of about 200,000 with 1,650 available positions for youth aged 16 to 21. We hope that will blanket it, although the labor statistics are not very good and we don't really know what the demand is.

So, that is the first part of it. That is approximately an $8 million program on transfer from the Department of Labor to provide a model of service in the community. It is not intended as a youth employment program. It is a youth service opportunity.

The $3.8 million, then, takes from that and says, if we are, in fact, to consider a program from that demonstration, it requires a great deal of homework to get that work done—studies on everything from establishment of the administrative mechanism to make the system work, including payroll recruitment, and so on, to the questions of a wide range of microeconomic models to find what the content of that would be.

I will be happy to provide this information—because we did a very detailed report on what we expected to do with that money, and there is a summary of it in the budget—but I will be happy to provide that.

[The information follows:]

DEVELOPMENT OF NATIONAL YOUTH SERVICE MODEL

The development of a National Youth Service model will include a number of research and development activities—including a detailed evaluation of the Syracuse Youth Community Service project and other related youth service programs; the design of a management and administrative structure which can support a national program; analysis of specific economic and social policy issues related to a national youth service; and the design of a microeconomic model suitable to projecting various levels of youth employment given changes in population growth, minimum wage, etc. These activities signify a thorough examination of the entire national youth service concept.

Senator BROOKE. But have you explored with the Labor Department its capabilities to do some of the development of this concept, like, say, the economic model and the analysis of other youth service programs?

Mr. BROWN. Yes.

Senator BROOKE. Because, you see, you requested here, as I understand it, 35 additional full- and part-time staff to develop a model, and it just seems that this would make ACTION headquarters rather top-heavy.

I wanted to get into that a little bit later, but I just wondered whether you have explored with the Labor Department its capability to help you.

Mr. BROWN. We have. There is a fundamentally different orientation about the notion of employment versus that of service opportunity, and it is a continuing point of discussion between us and the Labor Department. I don't see National Youth Services as a national employment program, but rather, it was, in regard to this that William James used the term "the moral equivalent of war." And it harks back to a great deal of the most high-minded thinking that a government has done. That thinking about the program is

not prevalent in the Labor Department, and we have had continuing discussions with them.

We, for instance, encouraged evaluation. You will notice that there are funds provided there for evaluation. And we have encouraged the Department of Labor to include that one city demonstration project I mentioned in their own evaluation of the youth employment programs which they are conducting. We have up to this point had no success in having them include it.

The reason for this discussion with OMB and with the Congress is really because, up to this point, it has been our sense that it needs to be done independently, freshly. It anticipates 10 additional full-time staff, as I recall, internally, and 25 part-time people to do that.

Senator BROOKE. I thought there were 35 in headquarters.

Mr. BROWN. That is, I think, 10 full-time staff and 25 part-time staff. Yes, it is 35 people. But it is predominantly—it could be done through the contract mechanism.

Senator BROOKE. Is there any duplication here with the Labor Department?

Mr. BROWN. Fortunately, the person who was running that demonstration project and who will run the R. & D. is a man by the name of Dennis Derryick, who is a labor economist by training, and who has worked very closely with Ernie Green at Labor. So, they have been working on that on a regular basis to try and insure that we are not going to be stepping all over each other's toes.

Senator BROOKE. You have allocated $1.1 million to design an administrative structure for this new program, which would include payroll procedures and accounting systems and recruitment and training and the like. Isn't this a duplication of staff functions already in place?

Mr. BROWN. We think not. If we are talking, as I would at least like to talk, without going beyond the boundaries of speculation—understanding, that is, that it is me talking and not making any sort of commitment—my own feeling is that National Youth Service really is a major social innovation. Potentially, what can be done with the $1.1 million cannot be done by running it through the CETA program or through any of the other programs. It needs to be separate.

We have a great deal of experience in both the Peace Corps and VISTA in terms of many of those systems, but it doesn't anticipate the magnitude of this program which will either fly as a result of this study or it will come back and say, "These are the problems with it, and we think it ought not to be pursued."

But the $1.1 million for the design of the administrative mechanism in some ways, just in thinking about it—my guess is, frankly, that the Army may have better experience about how to design those systems than the Department of Labor, if we are really talking about a national system. They at least deal with the kinds of magnitudes of numbers and the kinds of problems. There may be some experiences some place else. I certainly don't anticipate starting de novo in this.

Senator BROOKE. You don't think that they are found within the Labor Department?

Mr. BROWN. We have not found them up to this point. They may be there.

Senator BROOKE. But there is no duplication in your own agency?

Mr. BROWN. No.

Senator BROOKE. How much, Mr. Brown, did you request from OMB for this new service, and what would you have done with it had you been approved?

Mr. BROWN. You recall that old story about the mule that you have to hit two or three times to get its attention. Well, I put in $500 million because I figured that would get their attention across the street; they would not overlook it.

Senator BROOKE. I'm sure it caught their attention.

Mr. BROWN. It caught their attention almost immediately and suggested that if there was an interest in serious National Youth Service program that it ought to be discussed as a policy item within the administration. At this time, the President was proposing $1.5 billion altogether for youth employment programs. I felt it was an alternative way of looking at how you get young people through that difficult or transition period into maturity. And so, I put in $500 million, and they said:

> Wait a minute, why don't you design the system first, and then we will go back and talk about operational money later if it appears from the system and the first demonstration that it can, in fact, be made to work.

And it was at that point that we began the discussions of what does it take to design the model for administration. And we went back and compared it to some other major social innovations that had been discussed over a period of time.

With National Health Insurance, as I recall $93 million was spent on the modeling and research on it. And we felt that it was a fairly modest request in anticipation of a larger national program.

Senator BROOKE. Let's continue to dream for a moment. Suppose it had been granted, how would you have spent that money?

Mr. BROWN. Carefully.

Senator BROOKE. Would you have been able to spend it?

Mr. BROWN. Well, we would have been able to obligate a good deal of it, because we don't anticipate developing whole new administrative mechanisms every place, but rather using already existing private sector organizations a great many places.

Senator BROOKE. But to do the job, it would cost, as you see it, in the neighborhood of $500 million?

Mr. BROWN. To begin, yes.

Senator BROOKE. All right. I'm not asking you to change your position at all.

Let me get back to your organizational structure for a moment, and then I am going to conclude and ask you to respond for the record to some questions. On the subject of reorganization, ACTION's organizational structure has been criticized as heavy at the top, in the staff and authority—but heavy at the bottom in responsibility.

Now, your recent decision to shift program authority to the field is apparently in response to that criticism; is that correct?

Mr. BROWN. Yes, that's correct.

Senator BROOKE. And yet your 1979 budget makes almost no mention of this decentralization. In fact, your request is virtually

identical with last year's, except that you did request 10 more permanent positions for the central office.

Now, how is your budget consistent with your plans to shift responsibility to the field?

Mr. BROWN. The problem with the budget is that it shows it by headquarters and region and doesn't show between the region and State. And the fundamental shift that takes place is a move of nearly half of the staff which is currently in the regional offices into the State offices. It makes the regional offices fundamentally into a policyforming office and provides substantial additional authority to the State offices and provides the personnel for them to function in that way.

It does not move a great deal of staff. In fact, it doesn't anticipate moving any staff out of the central office. And, as you suggest—requires putting some additional in there—but the overall model, as we see it, would take those regional offices which are now—John, 206?

Mr. LEWIS. Right.

Mr. BROWN. And moves about 100——

Mr. LEWIS. Ninety-six.

Mr. BROWN [continuing]. Directly to the States out of those offices without, we hope, disrupting the individuals' lives.

That is—the reason it has taken a good deal longer than it might have taken otherwise is that it was not done by fiat. We have permitted people to look at the possibility of voluntary reassignment; we've tried to develop job opportunities so that people in the jobs are protected as they move toward the State level and, in fact, have new opportunities coming with it.

But the reorganization is fundamentally between the regional office and the State office in order to give more authority, more staff, and more control to the State office.

Mr. LEWIS. Senator, I think this is in keeping with our philosophy that the programing should be from the bottom up rather than from the top down, so the structure and the decision making would be at the lowest level.

Senator BROOKE. Thank you, Mr. Lewis.

Tell me, how many vacancies do you currently have?

Mr. BROWN. I would have to provide that for the record.

[The information follows:]

ACTION AGENCY'S VACANCIES

As of January 31, 1978, the Agency's vacancies totaled 146. Of this number only 14 were in domestic operations.

Mr. BROWN. A good guess would probably be 60 out of 1,842. We are at about 1,780 or 1,770. I don't know how many of those are in DO and how many are in the Peace Corps.

QUESTIONS SUBMITTED BY SENATOR BROOKE

Senator BROOKE. Can you also provide us with a breakdown of the positions, grade levels, of the central, regional, and State offices before and after the reorganization?

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

Question:

Can you provide us with a breakdown of the positions and grade levels of your central, regional, and state offices before and after the reorganization?

Answer:

Listed below is a breakdown of the positions and grade levels of Domestic Operations' central (Headquarters), Regional, and State offices. In cases where there are large numbers of similar positions the grade listed is the average grade for the position.

DOMESTIC OPERATIONS STAFFING

Headquarters	Staffing Before Reorganization	Staffing for Proposed Reorganization
Office of the Associate Director	27*	17
VISTA	28	41
Older American Volunteer Programs	20	30
Regional Offices	206	110
State Offices	193	260
	474 **	458 ***

* Includes 7 positions from the Office of Special Volunteer Programs.

** Includes 13 positions scheduled for reassignment to the Office of Recruitment and the Office of Voluntary Citizen Participation.

*** The internal distribution has been revised from that shown on page 63 of the budget request. Revised plans for reorganization have been reached since submission of the budget.

PRESENT STAFFING

DOMESTIC OPERATIONS HEADQUARTERS OFFICES

Office of the Associate Director

Position Title	Grade Level
Associate Director	Executive Level V
Deputy Associate Director	GS-16
Executive Officer	GS-15
Management Officer	GS-14
Training Officer	GS-14
(1) Special Assistant	GS-14
Management Analyst	GS-13
Program Analyst	GS-13
Budget Officer	GS-13

DOMESTIC OPERATIONS HEADQUARTERS OFFICES--Continued

	Communications Officer	GS-13
	Management Analyst	GS-12
	Program Analyst	GS-12
	Administrative Officer	GS-11
	Staff Assistant	GS-10
	Confidential Secretary	GS--8
	Secretary	GS--6
(2)	Administrative Clerks	GS--5
	Correspondence Control Clerk	GS--5
	Operations Clerk	GS--5
		20

Special Volunteer Programs

	Director	GS-14
(4)	Program Specialists	GS-11
	Program Assistant	GS--6
	Program Clerk	GS--5
		7

Older American Volunteer Programs

	Deputy Associate Director for OAVP	GS-16
	Deputy Director for OAVP	GS-15
	Chief OAVP Polich Branch	GS-14
(4)	OAVP Policy Specialists	GS-12
(3)	Secretary	GS--6
	Chief, OAVP Operations Branch	GS-14
(6)	Program Specialists	GS-12
	Secretary	GS--6
	Program Assistant	GS--7
	Program Clerk	GS--5
		20

VISTA

	Deputy Associate Director for VISTA/AEP	GS-16
	Deputy Director for VISTA	GS-15
	Deputy Director for AEP	GS-15
(3)	Secretary	GS--6
	Chief VISTA/AEP Policy Branch	GS-14
(3)	Policy Specialists	GS-12
	Program Clerk	GS-15
	Chief, VISTA Operations Branch	GS-14
(5)	Program Specialists	GS-12
	Program Assistant	GS--7
	Program Clerk	GS--5
	Chief, AEP Operations	GS-14
(3)	Program Specialists	GS-12
	Program Clerk	GS--4
	Chief NSVP Branch	GS-13
(2)	Program Specialists	GS-11
	Program Clerk	GS--5
		28

PRESENT STAFFING

DOMESTIC OPERATIONS REGIONAL OFFICES

TITLE	GRADE	TOTAL
Regional Director	GS-15	10
Deputy Regional Director	GS-14	10
Secretary	GS--7	10
Secretary	GS--6	3
Program Operations Officer	GS-13	10
Assistant Program Operations Officer	GS-12	3
Program Operations Specialist	GS--9	6
Program Operations Assistant	GS--6	3
Operations Clerk	GS--5	10
Training Officer	GS-13	10
Training Specialist	GS-11	18
Training Clerk	GS--5	10
Administrative Officer	GS-12	10
Administrative Aide	GS--6	6
Administrative Clerk	GS--4	4
Clerk-Typist	GS--4	4
Supervisory Budget & Fiscal Spec.	GS-11	5
Budget & Fiscal Specialist	GS--7	5
Fiscal Assistant	GS--5	13
Voucher Examiner	GS--4	5
Personnel Assistant	GS--6	4
Volunteer Services Coordinator	GS--7	14
Volunteer Services Assistant	GS--5	2
Grants & Contracts Officer	GS-13	10
Grants & Contracts Specialist	GS-11	2
Grants & Contracts Specialist	GS--7	9
Grants & Contracts Assistant	GS--6	10
		206

DOMESTIC OPERATIONS STATE OFFICES

TITLE	GRADE	TOTAL
State Program Directors	GS-13	48
State Program Officers	GS-11	96
State Program Clerks	GS--5	49
		193

PROPOSED STAFFING

DOMESTIC OPERATIONS HEADQUARTERS OFFICES

Office of the Associate Director

	Position Title	Grade Level
	Associate Director	Executive Level V
	Deputy Associate Director	GS-16
	Special Assistant	GS-14
	Budget Officer	GS-13
	Personnel Officer	GS-12
	Administrative Assistant	GS--6
	Chief, Field Management	GS-14
(2)	Field Management Specialists	GS-12
	Management Aide	GS--6
	Demonstration Programs Officer	GS-14
	Demonstration Programs Specialist	GS-13
	Staff Assistant	GS-10
	Confidential Secretary	GS--9
	Secretary	GS--6
	Correspondence Control Clerk	GS--5
	Program Clerk	GS--5
		17

Older American Volunteer Programs

	Deputy Associate Director for OAVP	GS-16
	Deputy Director for OAVP	GS-15
(2)	Secretary	GS--6
	Chief Operations Branch	GS-14
	Operations Clerk	GS--5
(2)	Secretary	GS--6
(10)	Program Specialist	GS-11
	Budget Officer	GS-12
	Training Officer	GS-13
	Writer/Editor	GS-11
	Secretary	GS--6
	Clerk/Typist	GS--5
	Program Specialist	GS-12
	Chief Policy and Analysis	GS-14
(4)	Program Specialists	GS-12
	Secretary	GS--6
		30

VISTA

Deputy Associate Director for VISTA/AEP	GS-16
Deputy Director for VISTA	GS-15
Special Assistant	GS-14
Staff Assistant	GS--8
Secretary	GS--6
Chief Budget Admin & Planning Branch	GS-14
Budget Officer	GS-12

DOMESTIC OPERATIONS HEADQUARTERS OFFICES--Continued

Program Specialist	GS-12
Research Assistant	GS--9
Clerk/Typist	GS--4
Chief NSVP/YCP Branch	GS-12
(2) Program Specialist	GS-11
Clerk/Typist	GS--5
Chief Technical Assitance, Publications and Training Branch	GS-14
(2) Training Specialists	GS-13
Writer Editor	GS-12
Technical Assistance Specialist	GS-12
Secretary	GS--6
Clerk/Typist	GS--5
Chief Program Development Branch	GS-14
(5) Program Specialists	GS-11
Program Assistant	GS--7
Clerk/Typist	GS--5
Chief Operations & Policy Branch	GS-14
(6) Program Specialists	GS-12
VISTA/AEP Policy Specialist	GS-13
Program Assistant	GS--7
Volunteer Council/Support Assistant	GS--7
Secretary	GS--6
Clerk/Typist	GS--5
	41

DOMESTIC OPERATIONS REGIONAL OFFICES

Regional Offices	GRADE	TOTAL
Regional Director	GS-15	10
Secretary	GS--7	10
Program Operations Officer	GS-13	10
Grants & Contracts Officer	GS-13	10
Grants & Contracts Assistant	GS--6	10
Training Officer	GS-13	10
Administrative Officer	GS-12	10
Administrative Aide	GS--6	10
Budget and Fiscal Specialist	GS--9	10
Fiscal Assistant	GS--6	10
Volunteer Services Coordinator	GS--7	10
		110
State Offices		
State Director	GS-13	48
State Program Officer	GS-11	139
State Program Clerks	GS--5	73
		260

Senator BROOKE. We would be very pleased to have it.

Well, thank you.

This hearing will be placed immediately after the Secretary of Labor's testimony, to avoid printing complications.

And I again want to thank you, Mr. Brown, and your associates for your testimony. We will give you additional questions for the record.

[CLERK'S NOTE.—The justification material for this account appears in part 1 of the House fiscal year 1979 Labor-HEW Appropriations Subcommittee hearing record.]

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTION:

What portion of your $1,400,000 supplemental request is for raising stipends of VISTA Volunteers, which the Conference Report on the Fiscal Year 1978 Labor-Health, Education, and Welfare Bill encouraged you to submit?

ANSWER:

Of the $1.4 million supplemental request, $673,000 is for volunteer stipend increase, $38,000 of which will be for F.I.C.A. on the stipend. The balance of $727,000 will be added to the food and lodging line item.

QUESTION:

Explain how you arrived at the supplemental request for food and lodging.

ANSWER:

It has been ACTION's practice to increase the food and lodging allowance for VISTA Volunteers whenever there has been at least a 5% increase in the Consumer Price Index (CPI). Prior to November, the last increase of 7% was funded effective October 1, 1976 from $700,000 which Congress appropriated above and beyond the Administration's requested total for VISTA.

By October, 1977, the CPI had increased 5.6%, and it was estimated that by November, the effective date of the change, a 6.2% in volunteer food and lodging allowance was necessary to support volunteers on a subsistence level in the coming months.

QUESTION:

When do you estimate the stipend and food and lodging increases would take effect?

ANSWER:

The 6.2% food and lodging increase was effected November 13, 1977. The stipend increase would take place May 1, 1978.

QUESTION:

The major increase in your budget is for the VISTA program. How many more VISTA Volunteers would be supported with the $11.7 million increase requested for fiscal 1979?

ANSWER:

In FY 1978, an average of 4,560 VISTA Volunteers will serve with projects benefitting the Nation's poor. We are asking a 26% increase in FY 1979 to an average of 5,725 VISTAs serving.

QUESTION:

What is the rationale for this sizeable increase?

ANSWER:

This Administration has faith in VISTA as a useful instrument to help people help themselves up from poverty. The modest proposal for an increase in VISTA does not begin to reach the outer limit of need for the service of VISTA Volunteers; they now directly work with about 1 1/4 million of those in poverty each year, the increase would raise that to, perhaps, 1 3/4 million.

The increase, if approved, will result in Volunteers concentrating on specific basic human needs of the poor - an average of 365 more Volunteers working on the health and nutrition needs, almost 300 more working on winterization of houses and other opportunities for energy conservation by poor people, 270 more VISTAs concentrating on developing economic opportunities and increasing the income of the poor through coops, job development, credit unions and the like.

The requested increase will also allow VISTA to broaden methods of delivery of Volunteers so that the efforts of each Volunteer will have an impact on the welfare of more people who are poor.

We are proposing, for example, to broaden the VISTA Grant program which represents a mechanism through which we can assign Volunteers to tiny grass roots organizations without the need to vastly increase Federal staff to train, supervise and monitor the results.

VISTA is requesting authorization to place Volunteers who will serve 2-3 months supplementing the efforts of full-term Volunteers and who, it is hoped, will hit hard at problems such as the 14,000,000 habitations of the poor that need winterization, the 20,000,000 potential food stamp eligibles who will have new regulations to contend with or the more than 13,000,000 who have not been properly immunized against childhood diseases.

Another new program will place Community Development Volunteers who will be specially trained to help identify the priority needs of poor neighborhoods and rural communities, locate public and private sources of assistance, and work with the recipients to assure maximum use of the assistance made available.

VISTA is requesting funds for a combined domestic-international service for a small number of Volunteers to discover whether cooperative techniques used in some developing nations have application to poverty areas in the United States. This program will be mounted in cooperation with the Peace Corps which would pay overseas costs.

Finally, VISTA proposes to place Volunteers into America's newest territory, the Northern Mariana Islands, replacing the Peace Corps. Because of the great expense, including language training and travel costs, Volunteers will be expected to serve two years, but the cost per Volunteer Service Year for the initial year would be twice that of a mainland VISTA.

The exact increase requested in numbers of Volunteers represents the result of the usual give and take in the context of a National Budget proposal that was not to be expansionist. We did not seriously propose a budget for VISTA that was not within the capability of being accomplished by the present ACTION staff.

Most of the increased numbers of Volunteers will be programmed by present field staff and a priority allocation will be to those state program offices whose staff has the ability and need to select more sponsoring organizations and assign more Volunteers. We feel that there is no State in the United States that has all the VISTAs that can be intelligently utilized.

The committee should understand that we are requesting a 45% increase in the VISTA budget compared to a 26% increase in VISTA average strength in FY 1979.

Part of the reason for the increase is the relatively larger number of persons entering VISTA in FY 1979 who must be transported to the project site and trained before beginning the assignment.

But VISTA is also going to vastly increase pre and in-service training given Volunteers and their supervisors, from as little as 3 days to a minimum of 14 days. For a typical Volunteer, spending on training will increase from $400 presently to at least $600 in FY 1979.

We also are requesting increased funds for supervision and on-job-transportation needs of the Volunteers by over $2,000,000 which represents a per capita increase from $500 to about $650 per Volunteer service year. These increases are necessary to insure that the Volunteers will be able to perform the more demanding tasks we are asking of them with tact and discretion as we shift the focus of the VISTA program from provision of services to one that results in a lasting effect from the VISTA project.

QUESTION:

How do you plan to shift the focus of the VISTA program?

ANSWER:

In the last few years, as a result of cuts in the VISTA budget which cut funds for training and program support especially heavily, there was a drift to assignment to larger institutions and government entities which had the management capability and resources to absorb these costs.

The result was often safe, uninspired placement of VISTAs in roles that ameliorated poverty symptoms more than they attacked poverty causes. This Administration wants to turn the VISTA effort to empowerment of low income people and groups so they can influence the decisions that affect their own lives. Therefore, the focus will be toward assignment of VISTA Volunteers to grass roots groups, where that is possible, and to VISTA roles of assisting those sponsors to better organize the low income people they serve to advocate for their interests and use of VISTAs in service roles when they complement organizing and advocacy efforts rather than when they are

ends in themselves.

QUESTION:

What emphasis would be given to expanding the number of volunteers working on home winterization projects?

ANSWER:

In FY 1979, we are proposing an increase in average number of VISTA Volunteers working on winterization of homes of the poor. An average of 375 volunteers will specifically work on the energy problems of the poor, including developing alternative energy sources as well as winterization. Many of 250 other volunteers working in the area of housing design, construction and rehabilitation would also attend to the winterization needs of those dwellings.

We have held discussions with CSA about the possible use of short-term VISTA Summer Interns to participate in crash efforts to winterize a large part of the 14,000,000 dwelling units potentially eligible for CSA assistance.

QUESTION:

How many VISTA Volunteers currently work for public agencies?

ANSWER:

Thirty-one percent of VISTA Volunteers work for public agencies -- ten percent work for state governments; twelve percent serve Community Action Agencies; and nine percent work for Federal, county or municipal entities.

QUESTION:

Is there any evidence that public agencies might not actually be augmenting their services, but rather substituting VISTA workers for regular public employees?

ANSWER:

There is every evidence that VISTA Volunteers have been used to substitute for regular public employees. Over the past several years, it has become increasingly apparent that volunteer roles are indistinguishable from those of government staff.

Examples of this include a Public Library Services Project in Hawaii where ACTION was funding seven librarians over a seven-year period to do outreach work. Promises to institutionalize and hire the volunteers never materialized, although each year ACTION kept refunding.

Another example was the Iowa Civil Rights Commission where ACTION volunteers served as lawyers when the State legislature refused to provide for an adequate number of attorneys for the Commission.

CONFLICT OF INTEREST

Question:

The same press account raised a question about possible conflict of interest on the part of ACTION staff allegedly involved with ACTION grantees. Have you looked into this matter?

Answer:

As part of his investigation undertaken at the request of the Director, the General Counsel also looked into charges of conflict of interest contained in the Ear column. He found that ACTION awarded one grant and entered into two negotiated contracts with the National Center for Urban Ethnic Affairs (NCUEA) during the time that Mr. Gerson Green, who is a Director of the National Neighborhood Institute (a division of NCUEA) and who sits on the eight person management committee of NCUEA, was also serving as an expert consultant for ACTION. The investigation further revealed that Mr. Green represented NCUEA at two brief meetings with ACTION staff related to the grant, and signed the $50,740 Older American Volunteer Program contract on behalf of NCUEA, for whom he was acting as negotiator. However, Mr. Green did not participate in any of the decision processes on behalf of the Government on either the grant or the contracts.

The above activities do not constitute violations of any of ACTION's present published Standards of Conduct which prohibit a special employee from representing a third party before the agency only if he has served as a special employee for more than 60 days during the past 365. Mr. Green had been employed for less than 60 days. The regulations also prohibit an employee from representing a third party before the government on a matter in which he participated personally and substantially for the government, and from participating in a government capacity in any matter in which he or a business associate has an interest. As discussed above, Mr. Green did neither of these things.

However, because the Director was greatly concerned over the appearance of and potential for conflict of interests in such situations he ordered the cancellation of the contract which Mr. Green had signed for NCUEA.

Question:

Have you taken steps to identify and correct other conflict of interest situations?

Answer:

As part of his charge to the General Counsel, the Director ordered that all contracts and grants issued since his appointment in March, 1977 be reviewed for actual or apparent conflict of interest. That review is nearing completion.

He also directed the General Counsel to form a special task force to conduct a comprehensive review of agency policy and regulations concerning conflict of interest. That review has been completed, and a draft report prepared which recommends the adoption of five new rules which constitute a significant strengthening of the rules in regard to the appearance of or the potential for a conflict of interest. (The 60 day exemption, for example, that allowed Mr. Green to represent NCUEA, would be eliminated. In addition, all employees or persons subject to their supervision will be prohibited from participating in any decisions to award grants or contracts to any organizations with which they have been associated in the past two years.) That report is now being reviewed by agency senior staff. We expect that new rules, based on the report, will be published in the Federal Register shortly, and that they will be the most stringent found anywhere in government.

FAVORITISM IN VISTA AWARDS

Question:

ACTION has been criticized for its lack of clear-cut selection criteria for awards. Now there are disturbing reports of possible favoritism in the award of VISTA grants, among others -- even over the objections of your own contracts and grants manager. What is the situation here?

Answer:

The report of possible favoritism in the award of VISTA grants over the objection of the Director of ACTION's Division of Contracts and Grants Management appeared in the Ear column of the Washington Star on December 14, 1977. ACTION Director Sam Brown ordered the ACTION General Counsel to make an immediate investigation of the charges. The General Counsel found that the charges related to favoritism were either inaccurate or of little substance.

Specifically, the Ear article charged that "old pals" of VISTA Director Marge Tabankin:

> "aren't doing too badly. $500,000 to the Youth Project she once headed: $300,000 to Saul Alinsky at the Mid-West Academy, an Alma Mater; and $100,000 to the Educational Policy Research Institute, old chums."

While an application for a grant has been received from the Youth Project, no award has been made. Ms. Tabankin, because of her prior association with the Youth Project, has removed herself from the agency's decision processes concerning the proposal.

A grant of $432,200 was awarded to Midwest Academy. However, Saul Alinsky has been dead for two years, was not associated with the Academy, and Midwest is not Ms. Tabankin's Alma Mater. Her only connection with the Midwest Academy was a two day visit as an observer and two one-day seminars in which she was the speaker. She received no compensation or expenses. The contacts were prior to her employment at ACTION.

The "$100,000 to the Educational Policy Research Institute" apparently refers to a contract which is, in fact, with the Educational Testing Service of Princeton, New Jersey. The Service, because of its expertise in the field, was selected to design service learning models. The contract provides for cost plus a 6% fee.

Mr. Richard Beans, Director of ACTION's Contracts and Grants Division did not, at anytime, object to the issuance of these grants.

Question:

Can you provide this Committee with an explanation of just what criteria you used to select the grantees in question?

Answer:

In July of last year, VISTA contacted a number of organizations involved in community organizing and poverty programs and explained the VISTA national grants program. Those who expressed interest were given application forms. Other organizations which learned of the national grants and called to express interest were also provided application forms. Twelve organizations ultimately submitted completed applications. Of these, five have received grants: Community Organization Research Action Project (CORAP), Midwest Academy, Federation of Southern Cooperatives, National Center for Urban Ethnic Affairs (NCUEA), and National Public Interest Research Group. Six grant proposals are currently pending: La Raza, National Training-Information Center (NTIC), National Association of Neighborhoods (NAN), The Youth Project, Housing Assistance Council and National Association of Farm Organizations.

Although grants are not usually subject to a competitive process, ACTION has decided that in a new type of grant program such as this, a modified type of competition is appropriate. Thus, a Notice of National VISTA Grant Program has been developed. It will be published in the Federal Register and will set forth eligibility, criteria for selection, scope of the grant program, and other relevant factors concerning the program. Beginning in fiscal year 1979, ACTION will make decisions as to which projects will be developed for final grants by November 30, March 31 and July 30 of each fiscal year. To be eligible for consideration on any one of these dates, an application must be submitted at least 45 days in advance.

Question:

Last year, after your extensive review, you set out some new policy directions for the University Year for ACTION Program, and later, you contracted to develop several new models for running the program.

But now you come in with a request to terminate the UYA Program. What is the rationale for ending the program?

Answer:

This past summer an independent Citizens' Review of ACTION's programs confirmed the UYA program's shortcomings, as indicated by

our own evaluations. The UYA program's problems and limitations are abundantly clear.

They are concentrated in four areas:

1. Insufficient per volunteer financial support provided by ACTION to university sponsors, which severely limits volunteer participation by low-income students;

2. Inadequate length of ACTION supported project period at sponsoring institutions, which undermines the program goal of carrying on the UYA concept of service-learning without ACTION funds;

3. Inflexible legal requirements that volunteers serve full-time for a 12-month calendar year, which conflicts with the normal academic year functioning of sponsor and students;

4. Restrictive UYA program policy prohibiting attendance by volunteers at traditional campus-based classes, which may compromise the academic integrity of a student volunteer's education.

Therefore, ACTION has contracted with the Educational Testing Service of Princeton, New Jersey, to research and develop several alternative UYA models which would be designed to respond to the ACTION mandate of addressing the needs of the poor, and be mutually attractive to the educational institution's need to provide education to student volunteers.

ACTION will review and evaluate these alternative models during Fiscal Year 1979. Funding for the present UYA model will be discontinued until such time as ACTION adopts a model that best serves the needs of the country.

The possibility of continuing the UYA program into FY 1979 and attempting to correct its deficiencies during the year was considered, but frankly it was given a lower priority than other ACTION programs, and was presented as such to the Office of Management and Budget.

Both of these projects are in a phase-out process and will be ended upon the termination of the last volunteer.

QUESTION:

What are you doing to minimize this potential substitution of Federal funds for local resources?

ANSWER:

In order to minimize the potential substitution of Federal funds for local resources, it has been determined that the following, with rare exceptions, must be present in VISTA projects.

(1) The sponsoring agency should be grass roots (i.e., controlled and operated by those served). If it is not, the projects should lead to the creation of a grass roots organization or a system for advocating on behalf of the poor.

(2) The volunteers' roles should be supportive. Volunteers do not provide a direct service unless it can be demonstrated that the service role is an integral part of overall strategy which will lead to greater opportunities for low-income people.

(3) Low-income people can increase their impact by combining their effort with others who have a common interest.

(4) VISTA Volunteers' work should be arranged so that they have direct and personal contact with members of the low-income population their project is designed to serve.

There are situations, however, where the best possible sponsor would be a public institution. Where, for example, an imaginative public official wants to involve the poor more fully in a program designed for their benefit, and VISTAs can serve in a demonstration role to facilitate the process, a public agency would certainly be an appropriate sponsor. When, equally promising proposals are made, VISTA intends to favor small, private, grass roots organizations, and to favor proposals to use volunteers as facilitators, advocates, organizers, and in situations where a long-term effect is possible, over assignment of volunteers for direct services to clients, even if there is no alternative resource to accomplish the services.

Question:

What happened to your earlier decision to seek legislative changes regarding academic credit for service in University Year for ACTION?

Answer:

Prior to the submission of the University Year for ACTION budget proposal to the Office of Management and Budget, a draft legislative change document was prepared, which included several items that affected UYA. Two of these were:

1. Amend Section 113 (a) to authorize enrollment of UYA Volunteers for an academic year, or shorter period than a full year;

2. Eliminate the five year limit on UYA projects, and the 90% funding limit, which must progressively decrease. (Section 113 (c))

These items were dropped from the draft legislative change proposal when it became clear that the Agency's budget request to the Congress would not include funding for UYA in Fiscal Year 1979.

However, a third item related to UYA remains as a very important part of ACTION's request for legislative change. This is to amend Section 114 (a) to eliminate the requirement that 90% of the first $6.7 million appropriated for Service Learning Programs be spent on UYA.

Question:

How many University Year for ACTION Projects and enrollment opportunities are you proposing to eliminate?

Answer:

In Fiscal Year 1979, there will be 45 UYA projects and 1,337 volunteer enrollment opportunities eliminated due to the phase out of UYA.

Question:

Did you propose terminating the Program, or was this Office of Management and Budget's idea?

Answer:

ACTION's submission to the Office of Management and Budget included various levels of funding for the University Year for ACTION program. It was readily acknowledged that in-house evaluations had revealed a number of shortcomings in UYA. ACTION had contracted to devise alternate models for the UYA program in order to make the best possible use of its limited resources. It was determined, however, that UYA, in its present form, was an expendable program and no funding was included for it in the President's Budget.

Question:

Why, then, is there a reduction in the request for this program? (From $20.1 million to $15.4 million)

Answer:

ACTION's FY'1979 budget submission to the Office of Management and Budget (OMB) included a current services level of $20.2 million which was ranked #16 of 29 decision packages submitted. The OMB mark, in effect, drew the line after #17. However, the Retired Senior Volunteer Program (RSVP) current services was not included in the OMB mark.

It was not an easy or likeable decision not to request restoration of the current services budget in our reclama to OMB. However, we could not request restoration of funds for all our activities. Because RSVP is such a diverse program it is more difficult to obtain and document information about volunteer activities and impact of service than is the case with other ACTION programs. We felt that we had an insufficient data base on RSVP activities vis-a-vis basic human needs strategy to effectively support our case. A survey of Retired Senior Volunteer activities is currently being conducted by ACTION's Evaluation Division. This survey will provide data to help strengthen and support this vital program.

Question:

Couldn't you redirect RSVP without reducing the level of the program?

Answer:

The reduction has not changed our plans to continue and strengthen the RSVP Program. For the past year ACTION has concentrated on improving the effectiveness of our administration of the program and providing additional technical assistance to local projects. A detailed program operation monitoring effort of regional, state, and local projects is now being conducted and will be repeated annually. We are identifying strengths and weaknesses in order to emphasize and build on the strengths and to correct and prevent weaknesses. Additional results of this effort include increased consistency of programming and improved communication and coordination.

We have also developed a new periodical Prime Times, specially designed to assist Older Americans Volunteer project directors. It will serve as a vehicle to promote and report on particularly successful efforts that have been or could meet basic human needs. As a corollary to Prime Times, program assistance papers have been and will continue to be provided to local projects. These papers offer concrete "how to" information on a wide range of programming and management topics that should enhance volunteer efforts in areas of greatest need.

Question:

Don't you have many areas currently unserved by any RSVP projects?

Answer:

The current 692 projects are located in all 50 states, Puerto Rico, Virgin Islands and Guam. However, these projects leave many areas of the country unserved. We estimate that RSVPs are operating in 475 of the 596 planning and service areas (PSA's) of the state offices on aging. Consequently, at least 120 PSA's are not covered. Our joint agreement with the Administration on Aging (AoA) includes the goal of at least one project in each PSA with an area agency on aging. Some PSA's are very large and could realistically have many RSVP's operating with no duplication of service. Our internal long range planning has estimated a maximum potential number of projects of 3,000 to provide widespread opportunities of service.

Question:

What was your request to OMB for this program?

Answer:

Following the zero based budgeting procedure, ACTION submitted two requests for the Retired Senior Volunteer Program (RSVP). The minimum services request was $15,400,000. The current services request was $20,200,000.

Question:

Under your lower budget figure, how would you choose which projects to be cut? Be specific.

Answer:

ACTION's headquarters staff will be working with our regional and state offices to identify specific criteria that will be used to evaluate each project. While very specific criteria has not been developed at this time, those projects most effectively involved with outreach, advocacy and services to people with the greatest need will receive top priority for continued support. These will include projects that directly affect minority and low income individuals and groups.

Question:

Both your own evaluation of the RSVP program, and that conducted by the Citizen's Committee, made recommendations regarding recruitment of more minority and low-income senior volunteers, more training and technical assistance for both staff and volunteers, and better ACTION agency support of projects.

What steps are you taking to follow up on those recommendations?

Answer:

ACTION is currently developing a number of program assistance aids to assist local project directors to improve the quality of certain functions, among which is recruiting. In this instance the aid consists of a "how to" manual, which will provide the project director with specific information that will assist in recruitment of minority and low-income senior volunteers.

Ongoing reorganization planning envisions establishment of a training branch within the Older Americans Volunteer Program (OAVP) office. Inclusion of this function in headquarters program specific offices shall provide higher quality and greater consistency in training for both ACTION field staff and local project staff. Volunteer training, while conducted solely at the local level, is also the subject of a program assistance manual to be provided by ACTION to local projects. Improved technical assistance is rendered by OAVP monitoring teams and a greater effort to provide headquarters participation in state and/or regional training conferences whenever possible.

Agency support of projects will be improved through the delegation of more program authority to ACTION state offices, by provision of the improved training and technical assistance discussed above, by publication of the new OAVP periodical PRIME TIMES and, perhaps most significantly, the increased authority and responsibility assigned the Director, OAVP, to manage the program.

Question:

The review of RSVP in my own region, and elsewhere, brought out the problem with the lack of transportation for senior volunteers.

What are you doing to alleviate this problem?

Have you budgeted an additional amount for volunteer transportation in the Fiscal '79 budget?

Answer:

It is intended to assist project directors through training to develop transportation plans to maximize local transportation facilities, both public and private and coordination of the two where possible. Further, ACTION is holding discussions with other Federal agencies interested in improved transportation for the elderly (Department of Transportation, Administration on Aging). ACTION will keep projects informed of favorable developments in federally assisted transportation programs.

The '79 budget request does not include an additional amount for volunteer transportation. Transportation is budgeted by individual sponsor, however, ACTION policy suggests an average daily amount (currently $1.75) that may be budgeted for that purpose. The realities of the appropriation for RSVP and considerable increased transportation costs, have, in essence, reduced the amount of transportation that the average project can provide. Additionally, the factors of inflation and recruiting of a larger percentage of low-income volunteers tend to increase the number of volunteers requesting reimbursement for transportation.

Question:

How is your budget consistent with your plans to shift responsibility to the field?

Answer:

Funds budgeted for FY 79 programs will not change under the reorganization. Program Support funds are identified in the budget under the headings of (1) Program Direction and Administration; (2) Evaluation; and (3) Share of ACTION Agency Wide Costs.

The reorganization of Domestic Operations will require only an internal shift of program direction and Administration support funds among the Headquarters, Regional Offices and State Offices. The transfer of functions under a reorganization from the Regional Office to the State Offices will have no impact on the total budget request.

Question:

What is the rationale for this reorganization?

Answer:

Our mission is to meet basic human needs through voluntarism, and to facilitate this we want to place the program authority as close to the volunteers and the recipients of our services as possible. This means changing the Agency's organizational structure and focus from one that centralizes authority in the Regions to one that transfers this authority to the States.

Question:

What is the current status and anticipated timetable for your reorganization and decentralization effort?

Answer:

We have completed preliminary planning for the reorganization and have made a decision to proceed with the initial implementation efforts. Final staffing levels for Domestic Operations and its subordinate offices are being reviewed in the context of total Agency needs. The review may call for changes in staffing and personnel support budgets for specific Agency offices, but no overall change in ACTION's budget request is anticipated. ACTION Headquarters offices are currently preparing Position Descriptions, Performance Standards, Organizational Tables, Staffing Tables, Functional Statements, Delegations of Authority, Standard Operating Procedures, and other papers needed to carry out the reorganization.

We are proceeding with the reorganization on the basis that no ACTION employee will be harmed through reorganization. Consequently, employees will be expected to move to new locations only on a voluntary basis. Positions vacated through attrition will be reassigned or refilled in relation to the final Domestic Operations reorganization plan. Due to the voluntary nature of these transactions, it is difficult to predict a completion date for the reorganization.

Question:

What will be the reorganization impact on current employees as well as anticipated benefits and advantages over the previous organization?

Answer:

The reorganization has been planned to have as little negative impact on Agency employees as possible. This is in keeping with the President's policy, and my own desires. We have found that this is not an impossible task, just a difficult one.

In addition, we have planned the reorganization to provide attractive opportunities for ACTION employees. This will be accomplished by creating more program positions where competent, energetic employees may increase their responsibility and involvement

related to the programs and volunteers. We are concerned with training, with providing opportunities for employees to increase those skills that will make them more effective staff. By placing more people at the State level we have given employees the opportunity to impact where the real human needs are. I see this organizational structure benefiting both the employees and the communities we serve. The advantages of this, though much more difficult to measure than training opportunities or greater program involvement, may be far more important in making ACTION more effective than ever before.

Question:

How many vacancies do you have currently?

Answer:

On January 31, 1978, Domestic Operations had 14 vacancies.

Question:

Do you have specific goals for minority participation in the various programs, and if so can you specify what they are?

Answer:

We are concerned that our Domestic Programs reflect the ethnic diversity of the communities in which our projects are located. For example, one of our clearly stated VISTA goals has been an increase in minority participation. Last year it was 10 percent. It has increased to approximately 25 percent at the present time. Currently, of the ethnic groups served, 40% are white, 27% are black; 19% are hispanic; 6% are Indian; 2% are Asian and all others are 6%. Our programming efforts, minority advertising and vigorous recruitment campaign are all paying off in increasing monthly participation in all programs.

In OAVP our projects reflect a good mix of the ethnic and minority populations of the communities in which they are located. We are currently surveying our Older American projects to ensure they all meet our basic goal of appropriate minority representations.

EVALUATION

Question:

Last year ACTION received $500,000 for evaluations, and this year $400,000. What information did we get out of this investment, and why haven't the results been regularly shared with the Committee as is done by other agencies?

Answer:

The funds spent in FY 77 went for two purposes: for work on the design of an impact evaluation process for VISTA, UYA and the OAVP programs and also for project level evaluation for VISTA and SCP. The data collected in FY 77 is now being analyzed and reports are being written. We have completed reports on RSVP, Statewide (a brief survey recently completed), UYA and VISTA projects evaluated in FY 76. Now, draft reports are being produced on an analysis of VISTA projects evaluated in FY 77, the SCP program and volunteer attrition in full-time volunteer programs.

It has been the practice of the Agency to forward evaluation reports to the Authorization Committee. We have recently submitted past reports to your Committee and will continue to do so in the future as they are published.

Question:

Your evaluation efforts for the current year are apparently limited mainly to questionnaires to volunteers on what they, themselves think they're accomplishing. Is this really a meaningful way to evaluate the impact of your programs?

Answer:

During FY 77 ACTION developed a long-term evaluation model strategy for each of its domestic programs. Each model is based upon a series of studies which become progressively more sophisticated. The first study in all cases is designed to document what volunteers are doing, when, to whom and to what end. They involve the use of a questionnaire in a cost effective process that can be used for initial data analysis purposes and will provide useful information to program managers. The next step in the process will require on-site visits, to a selected sample of projects, to explore issues raised by the first phase questionnaires. We feel this is a meaningful way to conduct certain types of evaluation in a cost effective manner. Shorter special studies on specific program issues are also planned. This process will make use of existing data and field observations when required.

Question:

You've allocated $1.1 million to design an administrative structure for this new program, which would include payroll procedures, accounting systems, recruitment and training. Isn't this a duplication of staff functions already in place?

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Answer:

The $1.1 million to design an administrative structure for this program would, in no way, result in a duplication of staff functions in place. Currently, ACTION has a total of 10,000 volunteers that are served by the present administrative system. The type of organization needed for a National Youth Service to serve 100,000 possible volunteers would entail a new system that responds to different administrative structures. What these structures are will be more clearly defined from policy research answers. We feel that modification or expansion of the already overtaxed administrative system is not the approach to be taken for National Youth Service. If we are to put together a program design that meets the needs of local communities and their youth, then an administrative system for that program model must reflect that model and not the reverse. Therefore, research into appropriate cost-effective systems for recruitment, training and related management systems must be done.

Question:

What was your request to OMB for this new service, and what would you do with that amount if you got it?

Answer:

ACTION's submission to OMB included a request for $500 million for the National Youth Service (NYS). This funding was to be used to enroll an estimated 100,000 young people throughout the nation in various youth service activities. NYS volunteers were to be utilized in all basic human needs areas, especially Community Services in which 25,000 NYS volunteers would be involved.

NATIONAL YOUTH SERVICE

Question:

You are getting $8 million from the Labor Department this year to establish an experimental youth program in Syracuse, New York. What are your specific plans for this project?

Answer:

We are proceeding with a grant to a non-profit community based group in Syracuse to operate a demonstration program for Youth Community Service. The plan is for the Grantee to initiate a small pilot project this spring for approximately 200 volunteers. This will be used as a training process for the Grantee staff and test some of the program management procedures. Based on that experience, a larger program for approximately 1,650 volunteers will be initiated.

The volunteers will work within existing social/community service groups in areas that increase the effectiveness of those groups. A major consideration in developing volunteer positions will be that they involve the participating youth in the decision making process and provide for the development of personal skills.

Information gathered from this demonstration project will be considered in the research process and possible design of a National Youth Service model. We will be forwarding the specific Youth Community Service proposal that outlines the Demonstration Project in detail.

Question:

Do you plan to have additional Federal staff with part of this $8 million?

Answer:

We do plan to have one additional staff member to coordinate support for the Youth Community Service project and work with the National Youth Service. Other staff support in areas such as volunteer training and recruitment will be supplied by existing ACTION staff.

Question:

Your budget request includes $3.8 million for development of a National Youth Service Model. What is that exactly?

Answer:

The development of a National Youth Service Model entails a thorough examination of the entire national youth service concept -- ranging from research and evaluation of similar programs to the development of administrative procedures for a program that is national in scope. Specifically, this will include the analysis of economic and social policy issues related to a national youth service, such as the effects of an NYS on low wage industries; the design of a microeconomic model which will project various outcomes for youth employment given variations in population growth, minimum wage, etc.; the design of national management and administration structure; and the evaluation of the Syracuse Youth Community Service and other similar youth service programs.

Question:

Will any of the $3.8 million of additional funds requested for National Youth Service in Fiscal Year 1979 be used to continue the Syracuse Demonstration Project?

Answer:

Yes, as the budget is planned $138,000 of the $3.8 million will be used for Evaluation data collection on youth projects. Of the $138,000.00, approximately $81,000 will be used for the Youth Community Service project in Syracuse.

Question:

The concept of a National Youth Service may be a good one, but why does it require 35 additional full and part-time staff to develop the Model? Won't this make ACTION Headquarters even more top-heavy?

Answer:

Of the 35 additional staff only 10 are full-time staff. The remaining 25 temporary positions are for support and internal analysis work on various policy issues. Not all of the temporary staff are to be full-time or long-term temporary placements. We feel that the 10 staff will not make ACTION top-heavy as the utilization of permanent staff and temporaries is a much more cost-effective process than contracting all the work out. A second benefit to using this type of staff structure is that it will build within the internal structure of ACTION a body of personnel that have lived with the research process and can effectively use the results to improve the possible implementation process for National Youth Service, as well as the transfer of findings to existing ACTION programs.

Question:

Have you explored with the Labor Department its capability to do some of the development work on this concept -- like the economic modeling and the analysis of other youth service and employment programs?

Answer:

The current existing economic models are based and focused on concepts of supply and demand related to unemployment. Our concept for National Youth Service is one of volunteer service and responsiveness to community needs. Employment or skill development is a by-product of this type of program approach.

We will be looking at existing models and draw upon their actual operation structures and some of the social variables that are used as in-puts and moderating variables. Given the difference in philosophy and the basic concepts upon which the National Youth Service program is based, it is planned that major design work for the economic model still must be done.

BASIC HUMAN NEEDS

Question:

How did you arrive at the "Basic Human Needs" you have identified as part of your mission?

Answer:

ACTION has identified eight basic human needs into which it plans to direct its programs: Health and nutrition, food and water, knowledge and skills, economic development and income, housing, energy and conservation, community services and legal rights.

The "basic human needs" were identified in Summer 1977 as part of the agency effort to develop plans and budgets for FY 1979. A work group with representatives from all programs and from evaluation, planning, and recruitment reviewed program charters, previous evaluation reports, and surveys of volunteer activities in order to develop the eight need areas and a second-level activity description for the purpose of classifying ACTION's domestic and international projects and volunteer activities. The second-level activity description was tested in the FY 1979 planning process and will be further refined and revised prior to use in FY 1980.

Question:

Have you put any relative priorities on these--as a guide to prospective grantees, for example?

Answer:

ACTION has identified priority areas for domestic and for international programs. The domestic program priorities are health and nutrition and community services. Our budget request reflects increased effort in each of these need areas in FY 1979. Health/Nutrition was selected because it is an area in which volunteer efforts have the potential for the greatest impact and because the United States, along with other nations, has identified as a prevailing goal, provision of primary health care to the disadvantaged and least developed countries by the year 2,000. Community Services was selected because new directions of VISTA were already identified and focused in this area and OAVP, as well as VISTA, were moving toward community advocacy, citizen participation, and strengthening of community social service support systems for specific target groups served by these programs.

LEGISLATIVE CHANGES

Question:

How much of your budget request is dependent on changes in legislation?

Answer:

In a sense, our entire budget request is dependent on changes in our present legislation, since authorizations of appropriations for all activities under the Domestic Volunteer Service Act of 1973 (P.L. 93-113) expire September 30, 1978. It is therefore necessary to obtain authorizing legislation for fiscal year 1979 before our budget request can be enacted.

It will also be necessary to obtain an amendment to section 114 of P.L. 93-113 to carry out our proposal that all funds appropriated for service-learning programs under Part B of Title I be allocated to the National Student Volunteer Program (NSVP) and the Youth Challenge Program (YCP), and that funding of the University Year for ACTION program (UYA) be discontinued. Under existing law, 90% of the funds appropriated for service-learning programs under Part B of Title I of the Domestic Volunteer Service Act, if the amount appropriated is less than $6,700,000, must be allocated to the UYA program.

The increase in the volunteer end of service stipend from $50 per month to $75 per month proposed in the agency's request for a supplemental appropriation for fiscal year 1978 will require that the Appropriation Act specifically state the amount appropriated for that purpose. This requirement, found in §5(b) of P.L. 94-130 must be repealed, or similar specific language must be added to the Appropriation Act for fiscal year 1979, to permit ACTION to pay the increased stipend in fiscal year 1979.

The Summer Intern Service, proposed under the VISTA authority, will require legislation to provide VISTA with authority to operate short-term volunteer programs. If such authority is not obtained, the entire program, including short-term and full-year volunteers could be operated under Part C of Title I of the Act.

Question:

What specific initiatives you have proposed must await Congressional approval?

Answer:

Apart from the matters discussed in response to the last question, none of the agency's proposed initiatives depends upon the enactment of new legislation. However, we will be proposing some modifications to the Director's authority to provide support to short-term and part-time volunteers under Part C of Title I of the Domestic Volunteer Service Act to improve the agency's ability to make the most effective and efficient use of funds appropriated for these types of programs.

Question:

What, specifically, do you plan to do with the $450,000 increase in funding for demonstration programs?

Answer:

A variety of projects are planned for FY 1979. The following table displays the allocation of funds for demonstration programs in FY 1978 and FY 1979.

	FY 1978	FY 1979	Difference
Total	$1,500,000	$1,950,000	+$450,000
Mental Retardation	120,000	---	- 120,000
Fixed Income Counseling	150,000	---	- 150,000
Economic Development/Income	50,000	200,000 1/	+ 150,000
Energy	50,000	100,000	+ 50,000
Families/Displaced Spouses	500,000	300,000	- 200,000
Deinstitutionalization	95,000	400,000 2/	+ 305,000
Justice	75,000	---	- 75,000
Short-Term Volunteers	200,000	500,000	+ 300,000
Small Grants	260,000	300,000	+ 40,000
Stints	---	150,000	+ 150,000

1/ Includes income counseling.

2/ Deinstitutionalization will focus on areas of mental retardation, criminal justice, nursing homes and the handicapped.

Question:

How are these projects evaluated and selected?

Answer:

Each of the Demonstration Programs are designed with an evaluation component. The ACTION Division of Evaluation will evaluate each program in terms of the extent to which it achieves the pre-established goals and objectives.

ACTION has established a Task Force on Innovation which is composed of senior and line staff. All projects are reviewed and researched in terms of past history, other agency involvement, feasibility for consideration and applicability to the Agency mission.

Question:

What plans do you have for implementing successful demonstration projects more widely?

Answer:

Successful demonstration programswill be integrated within ACTION's categorical programs and assist in integrating programs with each other, or if the program is one that has unusual potential, we will request funds as a line item to continue that activity. Each demonstration program will result in the production of a technical assistance manual, documenting the process. This manual will be placed in the Office of Voluntary Citizen Participation and distributed to private voluntary organizations.

Question:

How would you evaluate the success of the Fixed Income Counseling Program, Displaced Homemakers, and Urban Service Corps demonstration projects?

Answer:

All projects are evaluated on its benefits to the participants; services to areas and groups to be served and its ability to continue in operation without continued ACTION funding.

Additionally, the Fixed Income Counseling Program will be evaluated on the extent to which the counseling sessions, workshops, newsletters, etc., have been helpful in enabling low income residents to increase their purchasing power with their fixed incomes.

The Displaced Homemakers Program (Displaced Spouses) will be evaluated in terms of the effectiveness of the supportive services and volunteer experience which enables the participants to qualify for additional formalized training and/or obtain employment.

The Urban Service Corps demonstration project will be evaluated on the extent to which the specific clustered program components assist in improving the capabilities of neighborhood organizations and agencies and the expansion of direct services to local people.

Question:

Your agency's management reporting systems were found "in dire need of serious review and overhaul." Have you undertaken this overhaul?

Answer:

Although a great deal of work remains to be done, we have made some significant improvements. After reviewing the management reporting systems, the agency has eliminated a manually produced management information report as well as several automated reports. A catalog of all automated reports is being prepared. This catalog will enable the agency to identify and reduce report redundancy, eliminate unnecessary reports as well as increase the sharing of information among managers.

Grants management information and volunteer recruitment/placement information are being automated. The Grants System will provide agency management with a method for tracking grants operations. The system provides statistical information such as volunteer man-years and highlights financial problems, particularly in the area of recording expenditures under grants. Automated information relating to volunteer recruitment is now produced daily and transmitted to the Service Centers/Regions for use the following day.

A study has been initiated to determine the information needs of the Senior Executive Staff. Upon completion of this study, a senior management reporting system will be implemented.

In summary, ACTION is revamping and streamlining existing systems, developing new systems and automating selected management reporting systems.

Question:

The Accounting System in particular was said to have high error rates, time lags and general unreliability. What have you done to correct this problem?

Answer:

Recently ACTION has accomplished several significant improvements in the Accounting System. A review of ACTION operations in headquarters and in each region by ten CPA firms resulted in specific recommendations for changes in the Accounting System. One of the major problems identified was the proliferation of fiscal codes. An immediate effort was mounted to reduce the number of codes to the minimum required for efficient and effective management. Codes and definitions were revised and computer programs changed to enable implementation of the new coding structure for FY 78. The number of codes was reduced by 40 percent. This reduction will result in fewer errors and more accurate and reliable data.

The CPA review also had an impact on the design documentation of the General Ledger System which is being prepared for submission to the Comptroller General for approval. Each of the specific comments were compared with the design documentation to determine any needed changes. These changes have been accomplished and informally reviewed by the Comptroller General. It is anticipated that the Accounting System design will be submitted to the Comptroller for formal approval next month.

An effort to improve reporting on grant liquidations and to decrease unliquidated obligation balances has been launched. Special automated reports have been developed to assist in the review and follow-up of reporting liquidations. A team of Accounting and Grants Management Personnel are researching and reconciling document files with grants and accounting records as well as visiting Regions to review problems and offer direction in corrective action.

ACTION is also addressing the problem of residual errors, input errors and time lags in the accounting system. The residual error file has been reduced by 80 percent in the last 18 months by utilizing special error tracking techniques to monitor input from the Regions. A longer range solution to input errors and timeliness problems in also being tested. During this test accounting transactions from one Region will be entered and edited on existing intelligent terminals. It is expected that on site editing will significantly decrease the input errors and time lag in accounting transactions.

This fiscal year ACTION has initiated the first comprehensive audit of the Agency's year end financial reports which are submitted to the Treasury and OMB. The audit is being conducted in a manner similar to the approach a CPA firm would employ when auditing a large private sector corporation. We plan to perform such audits annually until we are fully satisfied with the accuracy and fairness of the financial reports generated and, thereafter, on a bi-annual basis.

Question:

Have you instituted the Comprehensive Training Plan for staff and volunteers advocated by the Reviewers?

Answer:

The Citizens Review Task Force made a series of recommendations in the areas of staff and volunteer training. However, these did not constitute an overall Comprehensive Training Plan for the Agency. In response to these recommendations, we have reaffirmed volunteer training as a direct responsibility of each program office, done an in-depth analysis of volunteer training needs, and are in the process of re-tooling our volunteer training capability so that we may provide more comprehensive and substantively appropriate training. In the area of staff training, we convened a Training and Development Task Force which has been investigating means by which we may provide more effective and timely training for Agency staff. In addition, we have increased our emphasis on training in the areas of programming, community organization/development, fiscal management and supervision for field staff as well as headquarters staff. Specifically, we have instituted a full fledged, multi-phased orientation and training program for new Domestic Operations Regional Directors, beginning on February 14, 1978, we will initiate Equal Opportunity Title VI & VII training for over 300 Domestic Operations field staff, and in March we are beginning training in program processes and direction for 250 Domestic Operations field staff.

All VISTA Volunteers fielded through the National VISTA Grants are receiving comprehensive training in the theory and application of community organization techniques. Their training is being provided by respective grantees through designs approved by the Headquarters VISTA staff.

By July, all entering volunteers will receive a short, four-day orientation course alerting them to the expectations of VISTA service including an overview of the organizing and advocacy needs of the people to be served. After a month on the project site, Volunteers will be brought in for up to eight days of intensive training in community organizing and advocacy techniques and on other methods of accomplishing their objectives. Other in-service training will be available on an optional basis, to increase the skills needed by Volunteers on project. We are also initiating a technical assistance capability to enable Volunteer sponsors to exchange ideas and facts and techniques for better serving the poor.

Question:

Do you have a timetable and specific goals for this training?

Answer:

Yes. Domestic Operations staff training is scheduled to begin on March 8, 1978, with the first of four regional conferences each lasting two and a half days. The remaining three conferences are planned to begin March 15, March 27, and March 29. The goals of the VISTA portion of the conferences include: 1) To build a sense of community and open communications between field staff and headquarters around

new domestic program goals, 2) To brief all field programming staff on the new VISTA philosophy, project and sponsor criteria; and to discuss issues raised by the field concerning the application of the new guidelines in respective state and regional environments, 3) To gain a common understanding of terms and concepts in the new citizen organization thrust of VISTA; and to explore programmatic issues raised by state and regional staff. 4) To apply the new VISTA guidelines in program development studies to achieve a working understanding of VISTA programming goals. 5) To provide a briefing on the status of the National VISTA Grant Program; and review the respective roles the headquarters, regional and state staffs have in grant management.

Peace Corps has set the following goals for improving PC volunteer training: 1) Language Training: An additional 50 hours of pre-service training in both principle and second languages as appropriate should give PCV's the capability to reach a level of FSI-3 after one year of service. 2) Skill Training: Will provide opportunity for wider range of Americans to serve. Will vary from country to country and project to project but will involve: °Definition of skill objectives °Detailing related training objectives °Identification of competent trainers °Design of objective skill testing systems to ensure volunteers attain required levels. 3) Cross-Cultural Training: Restore Peace Corps' reputation for excellence in cross-cultural training, hindered because of cutbacks in training. Training must ensure volunteers have the skills to (1) understand their communities, (2) participate in local self-help efforts, and (3) integrate themselves in all community activities. 4) Secondary Skill Training/Basic Health Training: Pre-service training will include intensive health orientation to include information on nutritious local foods, common local diseases and their treatment, and preventive health measures.

The same training will enable PCV's to develop secondary projects to improve local community awareness of good health practices. Other secondary activities in fields such as grain storage and water resources will be developed later. These secondary skills will be emphasized in projects whose primary task does not directly address basic human needs. 5) Pre-Training: An initial training component in the U.S. is planned to assure greater suitability of all Peace Corps trainees before they begin country-specific skills training, by a closer examination of motivation and commitment.

Training will be a mixture of stateside and in-country training depending on the nature of the skills to be learned. 6) In-Service Training: Pre-service training will prepare volunteers to be able to identify when and where skills need upgrading or supplementation. As volunteer entry skills almost always differ from those reached after a year's service, regular opportunities for in-service language, cross-cultural and primary or secondary technical skill training will be provided as appropriate.

Other timetables and specific goals are being developed as decisions are being made in the various areas of organizational structure and programming.

Question:

Have you increased the Agency resources devoted to training?

Answer:

Yes. For Peace Corps volunteer training, we have added an additional $1,975,000 to provide skill training for generalist volunteers, we have lengthened pre-service training two (2) weeks at an additional cost of $2,833,000 and allocated an additional $9,000 to increase our in-service training capability.

The Older Americans program staff are developing a training development capability in its Headquarters Program Office through the development of training design, curricula and materials. Increased and improved training will be delivered to Older American Volunteers across the country.

VISTA Volunteer training is being expanded substantively in the areas of overall program awareness, community organization/development and individual skills development. The training design and implementation is being spearheaded by the VISTA Headquarters Program staff.

Staff Training is placing a heavier emphasis on the development of technical and interpersonal skills to perform assigned tasks, Upward Mobility for Agency staff and Executive Development.

Question:

Where in the organization is responsibility for this training lodged?

Answer:

Responsibility for staff and volunteer training is located in the following areas:

Peace Corps volunteer training needs are defined by each country in their project plans. The Headquarters Regions and Office of Program and Training provide technical back-up, contract support, monitoring and evaluation. Training is conducted in the host country, third countries and the United States. Depending upon the nature of the training need, one or all of the above sites may be utilized.

VISTA and OAVP volunteer training is the responsibility of the appropriate Headquarters program office and is conducted throughout the United States depending upon the nature of training needed.

Peace Corps, Domestic Operations and Support Staff Training are the responsibility of the Staff Training and Development Division, Office of Administration and Finance. This training is conducted in Washington Headquarters and appropriate field sites depending upon the target population for training.

Question:

Your justification for an increase in Recruitment and Communications is to meet your commitment to "increase the visibility and stature of the Agency's programs" - - - including the Older Americans Program.

But you're planning an 11 percent cut-back in Older American volunteers. This seems a bit contradictory, doesn't it?

Answer:

While these actions may appear contradictory, they are not inasmuch as they are separate but related issues. Increased visibility and stature of all of the Agency's programs is an overall goal. The cut-back in the Retired Senior Volunteer Program budget request is for the sole purpose of conserving Federal monies while the program is adjusted to address the most pressing human needs in the communities served.

Question:

What specific steps have you taken to improve minority recruitment?

Answer:

As a first step we've reviewed our statistics to determine the historical composition of our VISTA applicants. However, collection of minority data was disallowed for a period of years. In order to maintain activity, we are designing a system and procedures in order to track applicants. The final plan should be ready for our March campaigns.

Second, each of our five service centers has developed an activities schedule which is to build awareness among the minority population and encourage the recruitment of volunteers. These campaigns, plus our regular recruiting activities will be strictly monitored.

Third, we have already held one seminar with placement offices of certain traditional black colleges. The seminar program will continue in each of our service center regions.

The identification of minority ex-volunteers has already begun. We are hoping to hire additional minority volunteers by stronger contact with ex-volunteer groups, state directors, and program officers.

Question:

By far the smallest of your Older American Volunteer Program is Senior Companions. Why was the decision made not to expand this program, which has been very successful serving low-income elderly people with volunteers who are likewise elderly?

Answer:

The lack of budget expansion for Senior Companions by no means lessens our commitment to the program. It is clearly a program that fulfills an important need in the community by helping the frail elderly continue to live in their homes through personal support and care. However, because of program priorities and limited resources, we were unable to expand all our volunteer activities.

Question:

Can you summarize, very briefly, the major findings of the Citizen's Review Committee and the Management Consultants' Reports?

Do you feel the review was useful, and if so, do you plan to repeat the process later on?

Answer:

Summary:

- ACTION has no central and unifying mission.

- The existing organizational and staffing patterns work against effective implementation of ACTION programs so that the many committed and talented staff of the Agency feel restricted.

- The administrative functions are excessive and generally produce data that are either useless or unused.

- The number of minority people who participate in ACTION-supported programs is so low as to suggest an institutional bias.

- Our programs are not visible in the communities where they are located.

The Review was very useful. It will be used again, however, in a different format.

The process of citizen participation in ACTION will be continued.

Question:

I understand that one of the major findings of the review was to more clearly define ACTION's mission. Can you tell us what that revised mission statement is?

Answer:

The revised mission statement is the following:

"The mission of ACTION is to mobilize people for voluntary action at home and abroad to change the conditions that deny fulfillment of human needs by calling on the best and most creative instincts of the human spirit".

Question:

The review also recommended clearer goals and objectives so you'll know when you've accomplished your mission. But this new mission statement is still fairly general. Just how are you translating it into specific, measurable objectives?

Answer:

The Basic Human Needs Zero Base Budgeting process has helped clarify the goals and objectives which support the Agency's new mission. This is an ongoing process; however, for each of the major programs, new policy decisions have been made which support the Agency's new mission. Specifically:

Volunteers in Service to America

- VISTA will address the conditions of powerlessness in low-income communities.

- VISTA's will organize people for self-help through grassroots community organizations.

Youth Challenge Program and National Student Volunteer Program

- These two programs will be combined to coordinate their activities on behalf of high school students and young people.

Foster Grandparent Program

- FGP will begin working to keep children out of institutions as well as finding new ways to aid children within institutions.

Senior Companion Program

- SCP will begin working to keep older Americans out of institutions.

Retired Senior Volunteer Program

- RSVP will place more emphasis on the human needs impact of its volunteer activities in addition to providing a quality volunteer experience.

Question:

One of your initiatives, I understand, has been the creation of a Commission on Workplace Democracy, which was to report to you by January 1 on "how to make ACTION a better place to work".

What can you tell us about the recommendations of that Commission and your plans for changes?

Answer:

The Commission on Workplace Democracy was originally conceived as a study to explore the personnel system and the work environment at ACTION. Instead of bringing in people from outside to do this study of the Agency, we decided to begin by setting up an internal committee of management and union members to begin discussion. ACTION then contracted with the Harvard Project on Technology, Work and Character as third party consultants. This group, directed by Dr. Michael Maccoby, has more experience in work improvement projects than any other similar group in the country.

The Committee studied other work improvement programs and began searching for principles which would create possibilities for more employee participation within a hierarchical organization regulated by law. The principles created by the Committee for guiding the Workplace Democracy Experiment at ACTION are: security, equity, democracy and individual development. Two important criteria for setting up an experimental project in the Agency emerged from the Committees discussions:

- that a large number of managers and workers in a work unit must be willing to embark on such an experiment, and

- that is is, indeed, an experiment, not instituted by management decree nor demanded by worker protest.

With a Harvard Project facilitator assisting, we foresee the experimental projects developing slowly. No specific projects have begun, but several offices have expressed interest.

As offices decide to experiment, they will begin studying themselves and their work, designing ways to ask and answer questions. We do not know what issues they will address or what changes they will invent. It is important that the first few experiments study and evaluate carefully what is developing to insure improvement for the participants and for the programs of the Agency.

We see this as a much needed effort at social as well as technical research and development; a process of redesigning work so that the goals of the Agency are consistent with the human needs of the people who work for ACTION.

Question:

What, exactly, do you plan to do with $2.3 million more for "Voluntary Citizen Participation" projects?

Answer:

ACTION plans to improve and expand the State Volunteer Services Coordinator Program (Statewide), the Mini-Grant Program, and the Technical Assistance Program.

ACTION's FY 1979 request of $700 thousand for the Statewide Program will provide funding for four continuation and ten new Statewide grants with a greatly improved program of training and technical assistance.

In the past the Mini-Grant Program has had limited effectiveness in mobilizing citizen participation. In the future, we will provide a linkage between initial Federal support and on-going, long-term funding in an effort to increase citizen involvement. Approximately 425 Mini-Grants will be awarded in FY 1979 totaling $1,700,000.

With $948 thousand, the Technical Assistance program will implement:

-- A series of seminars and workshops which focus on community-based needs assessment and specific requests for assistance;
-- A series of regional and combined state conferences which will focus on the development of new and innovative ways for volunteers to broaden their involvement in seeking solutions to root causes of local social problems;
-- Identifying, developing, and disseminating "how to" manuals;
-- On-site technical assistance by experienced persons and groups; and,
-- Funding special projects that offer innovative procedures and approaches to citizen volunteer participation which enhance State government's abilities to meet critical human and social needs.

Question:

To what extent will these activities involve individuals in poverty, as opposed to middle-class volunteers serving middle-class clientele?

Answer:

Priority emphasis will be placed on promoting broader citizen participation within low-income communities, particularly within distressed urban areas which involve minority volunteers. ACTION's programs will be aimed at small, marginal grassroots voluntary action programs that are struggling to become established.

In this way, ACTION will be able to help involve new types of volunteers and neighborhood organizations in voluntary action and demonstrate that voluntary 'self-help' is an effective way to generate constructive social change and urban revitalization.

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Question:

To what extent do you think that the utilization of well-meaning "do-gooder" volunteers in poverty neighborhoods end up doing more harm than good?

Answer:

ACTION is sensitive of the need to define appropriate volunteer tasks which improve the quality of life for those who have been denied basic human needs and services.

It is important that local community members actively participate in the planning and implementation of projects affecting their lives. Within this general concept, we firmly believe that volunteers from all walks of life, who are seriously committed to improving the quality of life of those most in need, can 'make a difference'.

Question:

What are the nature and the extent of coordination with private sector volunteer programs?

Answer:

The newly established Office of Voluntary Citizen Participation (OVCP) will coordinate with the private volunteer sector at both national and local levels through a variety of mechanisms.

At the national level, OVCP will represent and advocate private volunteering interests and concerns within the federal government.

Through the Statwide Program, OVCP will help establish coordinating mechanisms within the State Governor's Offices which promote partnership cooperation with the private voluntary sector at State and local levels. The Technical Assistance Program will primarily rely on national and local private volunteer organizations, established community groups and individual experts to provide assistance to requesting groups.

Question:

Have you explored the possibility of increasing the stipends for your Foster Grandparent and Senior Companion Programs?

Answer:

Since the Foster Grandparent Program has not had a stipend increase since 1968 and the Senior Companion Program has not had one since its inception in 1974, ACTION explored the possibility of increasing the volunteer's stipend. However, in FY 1979 an estimated 19,600 people will be enrolled in these programs. This represents 2% of the potential low-income older people who would be interested and would meet the income and health eligibility requirements for a stipended volunteer program. When making its ranking, ACTION placed a higher priority on increasing the opportunity for additional people to participate in these programs rather than increasing the stipend.

Question:

What is the current status and anticipated timetable for your reorganization and decentralization effort?

Answer:

We have just completed the planning phase of the reorganization effort. Office managers have submitted their reorganization plans to me, and I have reviewed these submissions. In some cases I have made decisions to accept proposals, in other cases I have requested that additional information be provided before I make my final decisions. I must say that all the plans submitted to me reflected the type of planning I was looking for: implementation of the President's and my program goals while being very sensitive to the human needs of the Agency personnel who may be affected by the reorganization.

The implementation part of the process has begun, and we expect that it will be completed during March and April. One portion of the implementation, which accomplishes decentralization, will take place over an eighteen month period. In order to minimize negative impact on the career employees in the Agency, and still ensure that we are delivering the services to the communities we serve, this phase of the implementation is designed to be gradual. Initially, personnel shifts from Regional Offices to State Offices are to be accomplished through voluntary transfers and assignments. In addition, we expect to use normal attrition to aid in shift of personnel slots to State Offices. These and other efforts should give us the desired organizational structure, and decentralization, without disruptions of functions and negative effects upon staff normally associated with reorganization.

SUBCOMMITTEE RECESS

The subcommittee will recess, subject to the call of the Chair.

Mr. BROWN. Thank you, Mr. Chairman.

[Whereupon, at 12:15 p.m., Tuesday, February 7, the subcommittee was recessed, to reconvene at the call of the Chair.]

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