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DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR 1981

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HEARINGS

BEFORE A

SUBCOMMITTEE OF THE

COMMITTEE ON APPROPRIATIONS

HOUSE OF REPRESENTATIVES

NINETY-SIXTH CONGRESS

SECOND SESSION

SUBCOMMITTEE ON THE DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES

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PART 10

TESTIMONY OF MEMBERS OF CONGRESS AND INTERESTED INDIVIDUALS AND ORGANIZATIONS

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PART 10

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Printed for the use of the Committee on Appropriations

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*Deceased.

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR 1981

TUESDAY, APRIL 1, 1980.

TESTIMONY OF MEMBERS OF CONGRESS, INTERESTED INDIVIDUALS AND ORGANIZATIONS

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

WITNESS

HON. BARRY GOLDWATER, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. HIGHTOWER. The committee will be in order.

We are happy to have with us today the Honorable Barry Goldwater, Jr., a Member of Congress from California. We will be happy to have your statement at this time.

Mr. GOLDWATER. Thank you, Mr. Chairman. I am pleased to be here to join the subcommittee in what is undoubtedly a tough task, particularly this year when we are all trying to do what we can to balance the budget. The question is not whether to cut, but where to cut. In order to answer that question we have to determine what the priorities are for the country. I like to think that the first priority of this country, the priority that it was founded on, is the individual's right to freedom from government interference, and the government's duty to protect that freedom. This has been the heart and soul of privacy legislation this Congress has enacted in recent years. It is also fundamental to this Administration's well-publicized calls for further legislation protecting every American's right to be left alone.

Mr. Chairman, the Congress and the Administration over the past many years has reaffirmed this right to be left alone, the right to personal privacy. We have enacted a number of laws following up with that commitment. It was the Congress in 1978 and the Administration that also followed up with that commitment by creating an agency, the National Telecommunications and Information Administration, to enforce, to review, and to help formulate additional policy and also to coordinate those acts.

I don't think that agency can really begin to do an adequate job unless they have at least minimal support from the President, the Congress and everyone else who believes in the importance of their work.

In 1980, the NTIA, or the National Telecommunications and Information Administration, was directly appropriated $260,000, plus $365,000 reprogrammed from within the Department of Commerce. The total funding equalled $625,000 to do this very important job of helping to formulate and coordinate the privacy of a variety of privacy acts, as well as to get into the telecommunication area.

I might also point out that the other thing they are very desperately attempting to do and they are the only agency of the government other than the State Department, and that is to monitor and to help formulate an international policy on transborder data flow, that is when businesses in Europe wanting to send information across national borders are confronted with conflicting national laws that almost render international commerce useless or impossible, and therefore this agency is empowered to help formulate and coordinate an overall international policy on this very difficult telecommunication policy involving transborder data flow.

For fiscal year 1981 the proposed spending figure totals $425,000 and there will be no reprogramming. This is a one-third cut that could eliminate as many as half of the 12 employees that represent the Executive Branch in forming domestic and international privacy policy.

Mr. Chairman, I am not a defender of the bureaucracy, however I am a great defender of FAIR play. On that basis alone the NTIA is shouldering a completely unfair portion of the burden of balancing the budget this year.

I therefore ask you to restore $200,000 to this item in order to at least allow the NTIA to carry on its work with the same rock bottom appropriation level received in fiscal year 1980. The staff is there. The expertise is there. All that is needed is a commitment by the Congress so that their financial needs are met and so they can do what they are hired to do. Their work is important, Mr. Chairman. I have to underscore that, their work is important. Regardless of the politics, regardless of opinion, the work that they are empowered to do is vitally important.

It has often been said that there is too much distrust and disaffection between the government on the one hand and the people we serve on the other. I believe we can recapture a better outlook and take a step toward restoring a sense of trust if people have greater confidence in the use of their personal records, and a greater sense of control over their lives.

The NTIA, more than any other agency of government, spearheads the policies that can help restore that confidence. The least we can do is support them at a level which keeps this effort alive.

Thank you.

Mr. HIGHTOWER. Thank you, Mr. Goldwater.

Mr. Alexander, do you have any questions?

Mr. ALEXANDER. I appreciate the testimony of our colleague, Mr. Goldwater, this morning. I know of his interest in telecommunications and his expertise from my days on the Government Operations Committee, Subcommittee on Information. I worked with him on a bill, the Freedom of Information Act, as I recall. I appreciate your remarks.

I have no questions.

Mr. HIGHTOWER. Thank you, Mr. Goldwater. We appreciate your testimony today.

Mr. GOLDWATER. Thank you.

TUESDAY, APRIL 1, 1980.

IMMIGRATION AND NATURALIZATION SERVICE AND BUREAU OF THE CENSUS

WITNESS

BARNABY ZALL, FEDERATION FOR AMERICAN IMMIGRATION REFORM

Mr. ZALL. Mr. Chairman, I am Barnaby Zall from FAIR.

Mr. HIGHTOWER. Mr. Zall, we will be happy to hear from you. Are you going to read Mr. Conner's testimony?

Mr. ZALL. Yes.

Mr. HIGHTOWER. We will be happy to accept Mr. Conner's testimony for the record. If you would like to elaborate on it, or make any other comments that you like, we will be happy to hear from you.

[Mr. Conner's prepared statement follows:]

FAIR

FEDERATION for AMERICAN IMMIGRATION REFORM

John A. Tanton, M.D.
Chair
Otis L. Graham, Ph.D.
Vice Chair

Roger Conner
Executive Director

TESTIMONY

OF

ROGER CONNER

ON THE

FISCAL YEAR 1981 BUDGET

FOR THE

IMMIGRATION & NATURALIZATION SERVICE

APRIL 1, 1980

202-223-9640

1330 NEW HAMPSHIRE AVENUE, N.W., • WASHINGTON, D.C. 20036

Good morning, Mr. Chairman and members of the Committee. Thank you for the opportunity to present the views of the Federation for American Immigration Reform (FAIR) on the Fiscal Year 1981 budget for the Immigration and Naturalization Service (INS) and the Bureau of the Census. I am Roger Conner, Executive Director of FAIR, and with me is Barnaby Zall, Director of Government Relations.

Mr. Chairman, we all know that this is to be a tight budget year, but we are going to ask for more money for INS than was in the Administration's proposal. Although funds are tight, we must still provide adequate levels of support to those programs which are a basic function of government and which can lower costs in other government areas, or which provide other benefits to the government and the people of the United States.

In the case of INS, investment of a relatively small amount of additional funds can upgrade the efficiency of a vital function of government--control of our immigration and our borders; it can generate substantial returns to government in other areas, notably in employment opportunities for minorities and youth, and in easing the burdens on local governments and local taxpayers.

WHO IS FAIR?

The Federation for American Immigration Reform (FAIR) is a national membership organization devoted solely to immigration issues. We are a non-profit, non-partisan educational group, with a membership reflecting a broad spectrum of philosophies and

political affiliations. FAIR has two broad goals: an end to illegal immigration, and the development of a rational immigration policy for the 1980's. We believe that illegal immigration is not in the best interests of either our nation or the nations which are the sources of much of our illegal immigration for our nation. No one believes that we should open our borders completely, nor does anyone believe that we should close them completely. Deciding where that level in between is to be set is one of FAIR's basic goals. We think that the present level of immigration, 600,000 legal immigrants and possibly 2,000,000 illegal immigrants last year is far too high. To the best of our knowledge, FAIR is the only national membership organization which works only in the immigration field.

ILLEGAL IMMIGRATION IS A SERIOUS PROBLEM

Illegal immigration is a serious and growing problem for the nation. In 1970, some studies estimated that there were 1,750,000 illegal immigrants in the United States. According to a study by Census Bureau personnel released by the Select Commission on Immigration and Refugee Policy in January, data from 1975 or before showed thqt there were between 3,500,000 and 5,000,000 illegal immigrants in the United States in 1975 or before. The same month, the State Department told the New York Times that in 1979 there were 10,000,000 illegal immigrants in the country, with an annual growth of 2,000,000. Our estimates, predicated on many of the same reports used by the Census Bureau report, point toward a range between 6,000,000 and 8,000,000

illegal immigrants in the country in 1979, with an annual flow of between 875,000 and 1,750,000.

The effect of this immense clandestine population within the country is well-known.

Secretary of Labor Ray Marshall said last December that if only 2 million illegal immigrants were to return home, we could reduce unemployment in this country to 3.7%, well below the Humphrey-Hawkins national goal. And the Secretary, a labor economist who has worked on the problem of illegal immigration for more than a quarter of a century, pointed our that these new jobs would go to the people in America who need jobs the most - minorities, youth, and women, who are just starting out on the employment growth ladder.

Some researchers have attempted to dispute the idea that illegal immigrants take jobs Americans would otherwise take. Wayne Cornelius of the Massachusetts Institute of Technology, for example, claimed that unemployment was lower in areas with large populations of illegal immigrants (See Congressional Record of December 13, 1979, p. S18454 et seq.). Those reports have been refuted. Cornelius' study was criticized by David North, Director of the Center for Labor and Migration Studies, who pointed out that some areas studied did not have large populations of illegal immigrants (Oklahoma City, for example), and that erroneous statistical methods were used (see Congressional Record of December 20, 1979, p.S. 19523 et seq.). Vernon Briggs, of Cornell University, points out that there is no job category in the country where Americans do not

make up a majority of the workers. A major new study by the Department of Labor showed that not only are a majority of young people willing to take low-paying jobs in restaurants, cleaners, etc., but that they would work for less than the minimum wage.

Indirect costs are often unrecognized effects of illegal immigration. Those indirect costs fall heavily on local governments. Many states, through humanitarian concern, require that emergency medical care be provided to everyone. In New York and California, the unpaid medical bills from illegal immigrants threaten to bankrupt hospitals. Los Angeles County is suing the Federal Government for $89,000,000 in unpaid hospital charges. One study shows that the savings to California is $100,000,000 a year from illegal immigrants who voluntarily withdraw welfare applications when asked if they are legal residents.

The burdens of illegal immigration often fall most harshly on the immigrants themselves, in the form of exploitation and inhuman working conditions. In Louisiana, an illegal immigrant's baby was kept as a hostage to force her to return to work. Last year, two Texans were convicted of chaining illegal immigrants together to keep them from running away. The Department of Labor is using special wage and hour violation strike forces to uncover unpaid wages and unlawful working conditions for illegal immigrants. In Houston alone the strike force found $23,000,000 in back wages owed to illegal immigrants, as well as numerous cases of kick-backs, and unsafe workplaces. Last year the CBS program, 60 minutes, devoted a segment to the return of sweatshops in the garment industries

of New York and Los Angeles, through illegal immigrant labor.

But the burdens also befall others, including all of the United States. How can we continue to allow millions of people to repeatedly flaunt our laws with impunity? If we doubt the impact of millions of illegal workers today, what will we do in ten years, when millions more are here? And what about the children of illegal immigration, we are setting the stage for a massive and disruptive civil rights problem before the year 2000.

BUT ILLEGAL IMMIGRATION CAN BE CONTROLLED

Many people, faced with the litany of troubles just recited say that illegal immigration is too large and complex to be controlled. Former Congressman Herman Badillo told a Congressional Committe in New York last October that we can do nothing about illegal immigration, so we should just enjoy it. We don't agree that we are incapable of controlling illegal immigration.

Illegal immigration can be controlled, with humane and flexible methods consistent with American traditions of hospitality and respect for individual rights. We must remove the incentives for illegal immigrants to come to this country through the conscientious practice of fair hiring procedures. If we remove those incentives, there will be no need for any massive deportations of illegal immigrants. Deprived of jobs here, and unable to obtain welfare, they will return home.

The most important thing we can do to control illegal immigration however, would be to regain control of our borders. We need an adequate effort to deter most illegal border crossings and to

apprehend those who do attempt to cross illegally. This thought is not as far-fetched as some might believe. As Acting Commissioner Crosland point out to this Committee, 60% of all illegal border crossings are in about 60 miles of border at Chula Vista, California, and El Paso, Texas. Other parts of the border are either too inhospitable for crossings, or are easily monitored by the Border Patrol augmented by new equipment.

PRESENT RESOURCES ARE CLEARLY INADEQUATE TO DO THE JOB

The INS does not have, at present, sufficient resources to do the job it is asked to do. At any one time, only 350 officers are on duty to guard 5000 miles of border. Airport inspections cannot be carried out in all airports on Sundays and holidays. Far too many Border Patrol vehicles have more than 100,000 miles on their odometers. Replacement vehicles come equipped with gas-saving small engines, but the vehicles can't keep up with high-powered vehicles used by smugglers. Officers have to wear the same protective vests as the officers on the shift before, some of whom may have been on patrol in 100° heat for many hours. Investigators can check only a fraction of the tips they receive on the presence of illegal immigrants because they are either handling too many other calls or filling out extensive paperwork.

The Border Patrol Supervisors Association reports that it considers the Border Patrol to be only 33-50% effectve in stopping illegal border crossings. For each illegal border crosser apprehended, one or two others successfully enter the United States. INS Investigators estimate that, if they had only the number of investigators

they had a few years ago, an increase of 330, they could locate 30,000 more illegal immigrants each year.

YET FOR THE LAST FEW YEARS, INS RESOURCE LEVELS HAVE BEEN DROPPING

Despite the desperate needs of INS, the resources available to enforcement have been steadily dropped even though funds have repeatedly been increased by Congress. The Border Patrol is some 300 officers below its authorized strength, allowing INS to cut back positions while claiming to be increasing personnel.

Congress is not to blame. This Committee and all of Congress has consistently recognized the needs of INS and provided more funds. As Arizona Senator Dennis DeConcini told Commissioner Crosland, "It's as though you people don't care what we say." The blame must rest on the Administration, the Department of Justice, and INS itself. Again, Senator DeConcini said, "Somebody's got to help these people. Somebody's got to be made a believer in the White House."

A dramatic example of the attitude of the Administration occured last year, when the Office of Management and Budget attempted to cut back an increase of 495 officers explicitly added for the Border Patrol by Congress. In this budget, they are claiming to be adding the 395 positions, 495 minus 100, as new increase. The same old shell game is happening again,with the result being a continuing shortage of resources for the Border Patrol.

THE RESULT OF THE FAILURE TO PROVIDE ADEQUATE RESOURCES IS TROUBLE

As a result of the failure to provide adequate resources, the INS is in severe trouble. The agency is tremendously over-worked and understaffed. The enforcement part of the agency is under-equipped,

and morale is dangerously low. The national office gives no support to investigators and Border Patrol officers. Equipment fails or is unavailable when needed. The potential for violence is high when, as Commissioner Crosland acknowledged, the level of frustration is high. Yet, despite glaring headlines of corruption and violence, the Border Patrol continues to provide a high level of productivity and service. The allegations of brutality are essentially rehashes of incidents as much as fifteen years old, all of which have been investigated by INS. When real problems occur, as in corruption of bribery charges in San Francisco and New York, the offenders are usually uncovered and prosecuted.

In light of the disruption of INS, it is no wonder that immigration, legal and illegal, is at an all-time high, higher even than the early years of this century. Groups are taking aim at the immigration laws, demanding a special exception here, priviledged quota increase there. INS cannot even process adequately the requests that are made now. INS claims that it is powerless to carry out the recording of addresses of legal resident aliens once a year as required by Section 245 of the Immigration and Nationality Act.

We notice these failings most when a crisis erupts, such as the President's order to check Iranian student visa compliance. INS could not estimate the total number of students in the country, and several times raised its estimate of the Iranian students present, when more voluntarily appeared than INS knew were in the country. Today INS does not really know whether it has located all of the Iranian students who did not voluntarily report to them.

SOMETHING CAN BE DONE NOW, A NEW STUDY SHOWS

The situation need not be totally out of hand however, since we do have the opportunity to retain a substantial amount of control over our immigration even today. A study done at FAIR's request by the Border Patrol Supervisors Association, and included as Appendix 1 here, shows that we can control our borders without adding new armies of troops or spending billions of dollars. We would need to increase the total INS budget by about one-third, direct the additional officers to the areas of greatest need as determined by new computer coverage programs, and add some additional equipment and some support personnel.

The cost would be low. To stop 90-95% of all illegal border crossings would require only about $122 million yearly phased in over a three to five year period. This is only a fraction of the Department of Justice budget.

The funds could come from retaining some of the funds spent by the Legal Services Corporation to provide free services to illegal immigrants, in violation of both the Immigration laws and their own charter, or from a tiny slice of the employment programs geared to produce Ameircans trained and ready to work in some of the jobe left vacant by illegal immigrants who have returned home. The funds could even come from the funds that would be saved by avoiding more suits like that brought by Los AngelesCounty and contemplated by several Texas counties to recover funds for illegal immigrants spent by local governments but unreimbursed by the federal government.

INS CAN'T HANDLE THE TOTAL FIGURE IN ONE YEAR

Even these small sums would be too much for INS to absorb in one year. For example, the capacity of the Border Patrol training site in Georgia is only 1200 a year. But, more importantly, INS is not in a position to handle a larger increase with the present management structure and facilities. Any additions must be phased in slowly, over a period of between three and five years.

In eht first year, only a part of what is needed overall could be efficiently sbsorbed-perhaps half the needed investigators and a third of the Border Patrol officers. The first year cost would be about $50 million. The first additions should be placed in the areas with the greatest need, the "hot spots." For example, most of the increase in Border Patrol officers could go to Chula Vista, California (50%) and El Paso, Texas (25%), with the rest divided among the remaining sectors. The Border Patrol Supervisors Association suggests that a new INS computer package can be used to indicate where to add coverage, how much coverage to add, and when sufficient resources are most cost-efficient.

Because these new resources would go to the areas of greatest need, the per-officer productivity should increase dramatically. On the border, for example as the new resources are added, apprehensions of illegal border crossers should increase in those sectors. Then, as apprehensionsincrease, a deterrance effect should begin to diminish the number of attempted corssings in those sectors. At a certain point, apprehensions in those sectors will begin to decline, and then decrease sharply. At that point, new resources should be made available to the INS. These funds would be available

from other programs, and would make a significant difference in the ability of INS to control our immigration and our borders. By investing funds in INS, other programs may be less costly and more effective in the future. And, the federal government will be fulfilling one of its most important responsibilities to its citizens and its component governments, controlling immigration and promoting national security.

This Committee has always recognized the needs of INS and provided for them. We would only ask that this Committee continue its leadership in providing those funds, even in this trying period.

THE CENSUS BUREAU SHOULD NOT INCLUDE ILLEGAL IMMIGRANTS IN REAPPORTIONMEN

I would also like to comment on the budget of the Bureau of the Census in the Department of Commerce. FAIR fully supports the Bureau of the Census as the best grouping of statisticians and demographers in the country, with a spotless reputation for efficiency, accuracy, and confidentiality in its work.

As you know, Mr. Chairman, FAIR and 26 members of Congress filed suit against the Census Bureau to prevent a Constitional nightmare, the inclusion of illegal immigrants in the population total used for dividing Congressional seats among the states. I want to stress that we are not trying to block the inclusion of illegal immigrants in the overall population total. We support the Bureau's efforts to count illegal immigrants and to remedy the undercount of American minorities. Bur we cannot support the idea that, simply because a person is in this country in violation of our laws, he or she must be given Congressional representation. After all, the Census Bureau will count illegal aliens, but it

will not count the hostages in Iran.

If the Census Bureau gives representation to illegal immigrants, the votes of people who live in states with large illegal immigrant populations will be enhanced, and the votes of people who live in other states will be diluted, simply because of where they live. This distortion is a clear violation of the one-person, one-vote principle enunciated by the Supreme Court. The Supreme Court, in the Burns v. Richardson, 384 U.S. 73 (1966), held that Hawaii can constitutionally exclude aliens from its reapportionment base; yet the present Census will not produce the data needed to make that reapportionment. The Governor of Texas has told the Census Bureau, in a letter I include as Appendix 2, that he will not cooperatate with the Census unless such a total for reapportionment is produced.

We support a provision on the appropriations bill which would prohibit the use of funds for production of a reapportionment total which includes illegal immigrants. Although such a provision would not take effect until the next fiscal year, beginning in October, the reapportionment total is not to be produced until 1981. If such a provision is passed, the Bureau would have sufficient time to produce such a total.

The cost of such actions may be high, but the costs of doing nothing are far higher. If the suit we have filed succeeds, the result may be a retaking of the Census. If our suit does not succeed, suits will be filed in coming months by many of the states which will unconstitutionally lose seats in Congress because of the inclusion of illegal immigrants in the reapportionment base. These suits might force such a retaking. And the cost in deprivation of constitutional rights of millions of citizens in incalculable.

Even federal programs will be distorted. It is estimated that each citizen missed in the 1970 Census cost his or her state $200 per year in federal funds over the last decade. If illegal immigrants are included, even at levels as low as three million, or half of conservative estimates, the cost to states without large numbers of illegal immigrants over a decade of maldistribution would be $6 billion.

So, Mr. Chairman, we strongly suggest that the Census Bureau budget be adjusted to remove funds which would be used to include illegal immigrants in the reapportionment base.

Again, thank you for this opportunity to present testimony to the Committee today. I would be happy to answer questions at this time.

CONTROLLING ILLEGAL IMMIGRATION AT THE BORDERS

How much would it cost to stop most illegal immigration? Can we regain control of our nation's borders?

These two startling questions are a result of many years of questioning the ability of the Immigration and Naturalization Service, through the Border Patrol, to apprehend or deter illegal crossings of the borders. As early as the 1950's, immigration experts were saying that "sealing" the borders would require substantial forces of either troops or Border Patrol officers. Former Commissioner of the INS, Leonard Chapman, a strong advocate of major enforcement efforts, once told a Congressional Committee that "sealing" the border would require as much as a division of troops. And an unpublished anonymous Congressional report cited in a recent New York Times Magazine story - and, according to Congressional sources, unavailable to anyone - said that "sealing" the borders would require doubling the armed forces with all the additional soldiery stationed on the borders.

Yet "sealing" the borders and controlling illegal immigration are not the same thing. We can have virtually absolute control over illegal immigration without "sealing" the borders. A new study by the Border Patrol Supervisors Association, at the request of the Federation for American Immigration Reform (FAIR), shows that we can control illegal immigration relatively easily and inexpensively.

The report found that the Border Patrol is capable of apprehending or deterring between 90 and 95% of all illegal border crossings by adding only 3,600 new agents, at a total cost of about $122,000,000. The present Border Patrol has only 2,101 agents, and Border Patrol Supervisors estimate that they are only 33 to 50% effective at preventing illegal border crossings.

The Problem

The number of illegal border crossings is enormous, and growing each year. The Border Patrol made 879,566 apprehensions in the last fiscal year. Yet, at any one time, only about 350 officers are on duty at all our borders because of lack of adequate staffing. So, by any measure, Border Patrol agents face a huge task, and are very effective on a per-person basis.

The report estimates that with present Border Patrol effectiveness of between 33 and 50%, approximately one to two persons successfully entered the country for each person apprehended. Thus, between 875,000 and 1,750,000 persons entered the country illegally during the last fiscal year.

The report bases this estimate on three inter-locking measures:

unanswered sensor reports - electronic monitoring systems (sensors) are used to monitor wide geographic areas without the need for additional personnel. This measure of crossings is adjusted for the reliability of the sensor systems, and shows the number of activations of sensor systems which could not be answered by Border Patrol officers, or which did not result in an apprehension where corroborative evidence of crossings were discovered;

physical unlocated "sign" reports - in areas without sensor systems, the Border Patrol uses an older method of detecting crossings. This method involves large areas of smoothly-graded sand or dirt. Movement across these areas leaves evidence of crossings, or "signs." These reports are for "signs" which have been discovered, but for which no person has been apprehended;

"got away reports" - apprehension statements from investigators in the interior of the United States - often when an illegal immigrant is apprehended in the interior of the United States, he or she will describe the location of his or her entry into the country. Although occasionally duplicating the prior measures, this figure can be used to corroborate some of the earlier estimates.

Given the enormity of the border crossings, and the length of the borders (1950 miles on the U.S.-Mexico border alone), stories about requiring an army to "seal" the borders are understandable. Two-thirds of all illegal border crossings, however, are across only about 90 miles of border, in two sectors of Border Patrol coverage: Chula Vista, California (near San Diego), and El Paso, Texas. Most of the land elsewhere along the border is not easy to cross, and is frequently inhospitable. In addition, it is possible to monitor most of this area electronically or by air. Thus, the Border Patrol can, with additional personnel and monitoring equipment, detect and deter most illegal border crossings even over the long border in the Southwest.

Methodology

The report was conducted for FAIR by the Border Patrol Supervisors Association, the national organization of Border Patrol supervisory and management personnel, in February and March of this year. The association surveyed the sector chiefs in each of the Border Patrol sectors around the country.

The sector chiefs were asked: What additional resources in officers, support personnel, and equipment, would your sector need to become 90 to 95% effective?

Effectiveness was defined as the ability to either apprehend or deter an illegal border crosser. The level of effectiveness the sector chiefs used as a target was "90-95%," that is, 90 to 95 out of 100 illegal border crossings. The association felt that 90 to 95% effectiveness was sufficient to be considered "control" of the borders.

Needs were divided into three categories: additional officers, additional support personnel, and additional equipment. Officers are the personnel who actually conduct searches, apprehensions and most service to the public. Support personnel include mechanics, clerks, communications technicians, computer and sensor system analysts, and other positions needed to maintain the officers' productivity. Equipment included vehicles, aircraft, helicopters, communications and sensor equipment, and other equipment needed for effective service.

Cost and other data were adjusted for federal budget cycles and contract procedures.

Findings

The report found that all sectors requested a total of: an additional 3,500 officers, with an approximate first-year cost of $87,500,000; an additional 350 support personnel, with a cost of $5,950,000; and additional equipment, including vehicles, aircraft, communications and sensor equipment, costing about $29,131,000. Total estimated cost was $122,581,000.

The Border Patrol, however, is not equipped to handle such an increase at one time. Training facilities have an annual capacity of about 1,200 persons. Therefore, the association suggested phasing in the additional resources over a period of a few years. The resources which would be added should be directed to the areas with the most need, all of which are on the U.S.-Mexican border, and which include the "hot spots" in which most illegal border crossings occur.

The association suggests a method to determine the appropriate coverage in a sector, using a computer system developed recently by the INS Research and Development division. The Border Patrol has found that as apprehensions increase in an area, an increase is also found in the number of persons deterred from crossing in that area. At a certain point, when enough people are deterred from crossing in that area,

apprehensions will then begin to decrease. The association suggests that the optimal coverage rate is reached when the apprehension rate shows a sharp decline. At that point, the association suggests that additional resources be diverted to other areas for a more efficient use of resources. According to the association, the INS Research and Development division computer program could indicate accurately when each of these points on the apprehension efficiency curve is reached.

Significance

The report shows clearly what the Border Patrol supervisors think is required for control of the borders. The data was gathered from officers in the field by those in constant touch with the problem. These experts say not only that control of the borders is within reach, but also that effective control would require an increase of less than a third in the overall INS budget, which is only a few per cent in the Department of Justice budget.

We do not need to create a new army of officers to patrol the borders in order to protect our country from illegal immigration. We need only increase the Border Patrol to a total of about 5,800 officers, a modest force to perform a huge task, smaller than the police force for the state of Kansas. Since over 250,000,000 people enter the country each year, most through ports of entry, the total work force of the Border Patrol would be only 0.002% of the total INS workload.

TOTALS

BORDER PATROL EFFECTIVE FORCE

ADDITIONAL OFFICERS		
3500	avg. $25,000 (begin at GS-5 plus overtime of 25%)	$ 87,500,000
ADDITIONAL SUPPORT PERSONNEL		
350	avg. $17,000	$ 5,950,000
EQUIPMENT		
Vehicles	1837	$ 16,044,000
Aircraft	22	$ 3,450,000
Communications and Other		$ 9,637,000
TOTAL EQUIPMENT		$ 29,131,000
TOTAL BUDGETARY INCREASES NEEDED		$122,581,000

		BUDGETARY ADDITIONS FIRST YEAR
AGENTS	1071	$26,775,000
SUPPORT PERSONNEL	186	$ 3,162,000
EQUIPMENT		
Vehicles	586	$ 5,072,900
Aircraft	8	$ 1,100,000
Communications and other equipment		$ 3,889,000
TOTAL FIRST YEAR COSTS		$39,998,900

NEEDS BY SECTOR

CHULA VISTA	
Agents	582
Support	100
Equipment	
vehicles	396
aircraft (and exchange 2 fixed wing aircraft for 2 helicopters)	1
EL CENTRO	
Agents	208
Support	11
Equipment	
vehicles	98
aircraft	1
YUMA	
Agents	199
Support	35
Equipment	
vehicles	50
TUCSON	
Agents	395
Support	25
Equipment	
vehicles	132
aircraft	25

EL PASO	
Agents	300
Support	35
Equipment	
vehicles	155
aircraft	4
MARFA	
Agents	390
Support	22
Equipment	
vehicles	250
aircraft	6
DEL RIO	
Agents	400
Support	5
Equipment	
vehicles	200
aircraft	2
LAREDO	
Agents	350
Support	35
Equipment	
vehicles	185
aircraft	2

McALLEN	
Agents	370
Support	35
Equipment	
vehicles	185
aircraft	2
BLAINE	
Agents	13
Equipment	
vehicles	7
SPOKANE	
Agents	6
Equipment	
vehicles	4
HAVRE	
Agents	13
Equipment	
vehicles	8
GRAND FORKS	
Agents	10
Equipment	
vehicles	8

DETROIT	
Agents	11
Equipment	
vehicles	5
EASTERN REGION (CANADIAN BORDER) TOTAL	
Agents	34
Support	3
Equipment	
vehicles	15
LIVERMORE	
Agents	125
Support	25
Equipment	
vehicles	75
NEW ORLEANS	
Agents	50
Support	10
Equipment	
vehicles	32
MIAMI	
Agents	44
Support	9
Equipment	
vehicles	32

OFFICE OF THE GOVERNOR
STATE CAPITOL
AUSTIN, TEXAS 78711

WILLIAM P. CLEMENTS, JR.
GOVERNOR

February 13, 1980

Mr. Vincent P. Barabba
Director, Bureau of the Census
United States Department of Commerce
Bureau of the Census
Washington, D. C. 20233

Dear Mr. Barabba:

I am writing to acknowledge your letter of December 31, 1979, concerning the Complete Count Committees Program and, more important, to inform you that I will not at present support this program. In fact, I must oppose any campaign by the Bureau of Census to achieve a full count of the illegal alien population of Texas unless the Bureau of Census devises some workable plan to identify the number of aliens (illegal and legal) that are counted in the upcoming decennial census. Article 4, § 10, of the Texas Constitution requires that I "conduct . . . all intercourse and business of the State with other States and with the United States." It is in this capacity that I am presenting below the "Texas Plan" for dealing with the census count of aliens.

My concern is with the data that the Bureau of the Census will provide to the Texas state legislature for the purpose of redistricting. Texas has a substantial alien population that is unevenly distributed within the State. In this situation, the use of a total population base for redistricting would most likely result in a redistricting plan that is unconstitutional under the "one-man/one-vote" principle of the Supreme Court's redistricting cases. In these circumstances, it would be necessary for a legislature to use a "citizen" population base to redistrict. See WMCA, Inc. v. Lomenzo, 377 U.S. 633 (1964).

Texas and other similarly situated states must therefore receive from the Bureau redistricting data from which a citizen population can be derived. Under the Texas Plan, the redistricting data should contain total population figures for the relevant geographic areas and figures showing the number of aliens (legal and illegal) that are included in the total population figure. By subtracting the alien number from the total, a state will be able to derive the citizen count in any particular geographic area.

This is not an unreasonable request. The Bureau will provide extensive data on racial demographics to avoid unconstitutional racial gerrymandering. The Bureau is making available its redistricting data on an election precinct basis to avoid unconstitutional political gerrymandering. It would be unreasonable and arbitrary for the Bureau to refuse to provide a breakdown of alien population as part of its redistricting data to avoid the unconstitutional result outlined in the preceding paragraph.

There are also practical considerations under the federal Voting Rights Act that would require an accurate alien count. The Voting Rights Act applies to Texas and, in the reapportionment context, prohibits "a retrogression in the position of racial minorities with respect to their effective exercise of the electoral franchise." Beer v. United States, 425 U.S. 130, 141 (1976). To determine whether a redistricting plan results in such retrogression, the Justice Department apparently examines whether a redistricting plan contains a number of "safe" minority districts at least equal to, if not more than, the number of minority representatives in office before redistricting. A "safe" minority district is considered by the Department of Justice to be one in which 65-70% of the population is minority. In Texas, most aliens are of Hispanic origin and would therefore be included in the census count of minorities. If, however, the census data did not exclude aliens from the count, the Justice Department's retrogression analysis would be frustrated. Let us assume, for example, that half of the minority community in a particular geographic area are resident aliens. Let us assume also that the area is the size of a legislative district and that 70% of the area's population is minority, and 30% nonminority. In fact, the district will have 35% eligible minority voters, 30% eligible nonminority voters, and 35% ineligible minority aliens. This is not in reality what the Department of Justice would consider a "safe" minority district. Unless the Bureau of the Census gave Texas an accurate count of the alien population in this area, however, the Justice Department would never know that this district should not be counted as "safe" in the retrogression analysis.

Given the foregoing, the Bureau of the Census should have known that states like Texas would require an accurate citizen count as part of their redistricting data. Your active defense of the lawsuit on this subject (FAIR v. Klutznick), however, has persuaded me that you have no current intention to provide the data that Texas clearly needs. Indeed, it has come to my attention that the Justice Department has claimed in the litigation that no state has ever asked for data on the alien and citizen count. Whatever is the case, it should be clear that I am now requesting this information for the State of Texas.

What exactly do we need?

Under the Texas Plan, the Bureau of the Census need only provide an accurate count of the number of aliens who are counted in the census. Once the number of aliens is excluded from the full count, then state redistricting authorities would have an accurate citizen count with which to redraw district lines. There is therefore no need to distinguish further the number of "illegal" aliens from the total number of aliens or to gain a complete and accurate count of all aliens.

Questions 11 and 12 of the Census' long form questionnaire should answer the alienage question for those who receive the long form. The plaintiffs in the FAIR suit have proposed that the Bureau attach a flyer to the short form asking similar citizenship questions. So far as we can tell, the Bureau considers this procedure feasible and does not dispute that this procedure would enumerate the number of aliens being counted. Of course, it may not guarantee a full count of aliens or an accurate count of "illegal" aliens — but neither of these counts is needed for redistricting; only an accurate citizen count is necessary.

We believe in any event that the Bureau could devise a workable plan — through use of a flyer, through widespread random distribution of the long form, or through some other Bureau-certified method — to identify the number of aliens included in the enumeration. The other redistricting data will be provided on the block, block group, census tract, and election precinct levels. Under the Texas Plan, however, the Bureau need only provide the alien count on the census tract and election precinct levels. We urge that you direct the Bureau to begin immediately to devise such a plan to distinguish aliens and to revise accordingly the data that will be provided redistricting authorities next year.

I feel so strongly about these points that I am willing to state publicly my opposition to your efforts to count all illegal aliens unless the Bureau of Census so revises its redistricting data program. Please inform me at your earliest convenience how you intend to address these issues.

Under the Texas Plan, aliens would not be excluded from the census. The Texas Plan would therefore result in total population figures for all other census purposes. Under the Texas Plan, all federal funds to the states wholly or partially based upon population could be allocated among the states on the basis of a total population count, which would include aliens. Therefore, the Texas Plan would neither interfere with

Congress' right to determine the appropriate basis for allocating federal funds among the states nor prevent the states from fulfilling their responsibilities to enact constitutional redistricting plans.

Sincerely,

WILLIAM P. CLEMENTS, JR.
Governor of Texas

WPC:sp

cc: Lieutenant Governor William P. Hobby, Jr.
Speaker of the House Billy Clayton
Attorney General Mark White
Secretary of State George W. Strake, Jr.
Gerald Jones, Esq., United States Department of Justice
Marshall Turner, Bureau of the Census
Mr. George J. Weiner, Attorney for Plaintiffs in FAIR v. Klutznick

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Mr. ZALL. Good morning, Mr. Chairman and members of the committee.

Thank you for the opportunity to present the views of FAIR, the Federation for American Immigration Reform.

I am Barnaby Zall, Director of Government Relations. Mr. Roger Conner has been delayed on another meeting on the Senate side. So I will present his testimony.

IMMIGRATION AND NATURALIZATION SERVICE

FAIR is a nonprofit non-partisan national membership organization representing members of all philosophies. As far as we know, we are the only national membership organization working solely on immigration issues.

FAIR's principles in brief are: An end of the system of illegal immigration and reform of the immigration laws of this country to conform with the realities of the 1980's.

This is a tight budget year, but we are before you today to ask for more funds for the INS. Even though funds are scarce, INS needs a small increase over this year's level for two reasons:

First, funds invested in INS will return substantial savings to the federal government later, notably in less costly jobs programs for minorities and youth and will also ease the huge burden on local governments.

Second, funds provided to INS will provide an opportunity for a more efficient and effective level for an essential government function, control of immigration and our borders.

We have lost control of our borders now. The Border Patrol Supervisor's Association estimates that for every illegal border crosser they apprehend, one or two more enter the country successfully.

The State Department in January stated that an additional 2 million immigrants enter the country each year. The INS is in a shambles through years of neglect. This committee has always worked hard to help INS. We are asking you to continue that. The Border Patrol Supervisor's Association, at FAIR's request, prepared a study which shows total control of our borders again would only cost $122 million, not the billions called necessary by others. We have included a copy of that report with our testimony.

Yet INS could not handle that much right now. Training and management inadequacies will restrict INS's ability to absorb more than one-third of the needed Border Patrol officers, and about half the needed investigators.

Therefore, Mr. Chairman, we are asking this committee to provide the level of funding INS could absorb during this fiscal year, about $52 million more than the present level, $40 million to the Border Patrol and $12 million for the additional investigators. Providing these funds would allow the Border Patrol to almost double its efficiency, and allow them to apprehend an additional 30,000 illegal immigrants in the United States in the first year.

BUREAU OF THE CENSUS

I would also like to say a few words about the Bureau of the Census. As you know, FAIR and 26 Members of Congress have filed

suit against the Census Bureau to stop the inclusion of illegal immigrants in the reapportionment base. That suit is now pending in the Supreme Court, which recently decided to let the Census continue while it considers the case.

If FAIR prevails on the merits, however, the result might be a retaking of the Census. Therefore, several Members of Congress have introduced legislation to require the Census Bureau to exclude illegal immigrants from the reapportionment base. We would ask this Committee to consider a provision on the Bureau's appropriations which would prohibit the use of funds in the next year for the preparation of an apportionment base which includes illegal immigrants. If the Census Bureau includes illegal immigrants in the apportionment base, several states will lose Congressional seats. Citizens will lose representatives to illegal immigrants who have no right of representation. This malapportionment could last a decade, and will violate the Constitution's requirement of equal access to government for all Americans.

Therefore, this Committee should act quickly to prohibit the use of funds for the creation of an apportionment base including illegal immigrants.

Thank you, and I would be happy to answer any questions at this time.

Mr. HIGHTOWER. Thank you.

Mr. Alexander?

Mr. ALEXANDER. Thank you, Mr. Chairman.

Mr. Zall, are you satisfied with present laws as they apply to illegal aliens?

Mr. ZALL. No, sir, we are not.

Mr. ALEXANDER. What changes would you recommend in the law in order to provide for more effective administration by the INS?

Mr. ZALL. The major change we support, Mr. Alexander, is what we call FAIR hiring procedures. This sort of law has been talked about for many years, in fact the Administration proposed it in 1977. What it would do is basically require a new hire, a person about to be hired for a job, to certify that he or she is either an American or a legal resident alien entitled to work.

Mr. ALEXANDER. Mr. Zall, what have you done and what has your organization done in order to advance the cause of this proposal?

Mr. ZALL. We have a bill that is ready for introduction, which has not yet been introduced. We are intending to introduce it in the Senate first. Senator Huddleston from Kentucky has the bill pending at the Senate Parliamentarian's desk. We have several members in the House who are ready to introduce the same bill. We are, however, waiting for a ruling by the Senate Parliamentarian. We intended to introduce it in the Senate first.

Mr. ALEXANDER. Why are you waiting on all this? Why haven't you taken some direct action, shown some initiative?

Mr. ZALL. Primarily because we were looking to see whether our Census suit would be decided on first. Now that it looks as though the suit will not be decided for several years——

Mr. ALEXANDER. Have you talked to the Department of Labor about its attitude toward the employment of illegal aliens in this country?

Mr. ZALL. We have not talked to them directly. I understand from their enforcement of several laws, such as the Farm Labor Contractors Registration Act, that they have some laws on the books prohibiting the employment of illegal immigrants.

Mr. ALEXANDER. I have been sitting on this committee for six years and I have seen and heard people who pass through wringing their hands and making grand statements concerning the problem of illegal aliens in this country, but I have yet to see any action taken by anyone. Is your organization going to take some action or do you just want to talk about it?

Mr. ZALL. We hope to take some action, sir. We are a new organization. We just opened a Washington office last year.

Mr. ALEXANDER. Thank you very much.

Mr. HIGHTOWER. Mr. O'Brien, do you have any questions?

Mr. O'BRIEN. I have no questions at this time.

Mr. HIGHTOWER. Thank you very much. We appreciate your willingness to present Mr. Conner's testimony.

TUESDAY, APRIL 1, 1980.

DEPARTMENT OF COMMERCE

GENERAL ADMINISTRATION

WITNESSES

RICK BAY, UNITED STATES WRESTLING FEDERATION
MICHAEL SCOTT, UNITED STATES WRESTLING FEDERATION

Mr. HIGHTOWER. Mr. Rick Bay.

Mr. BAY. Yes, sir. I am prepared to testify.

Mr. HIGHTOWER. We have your prepared statement. We will be happy to insert it in the record and you may expand on it if you wish.

[The statement follows:]

STATEMENT OF

RICK BAY

on behalf of the

UNITED STATES WRESTLING FEDERATION

before the

SUBCOMMITTEE ON STATE, JUSTICE, COMMERCE & JUDICIARY
COMMITTEE ON APPROPRIATIONS, U.S. HOUSE OF REPRESENTATIVES

April 1, 1980

Mr. Chairman, Members of the Subcommittee:

My name is Rick Bay; I am Assistant Executive Director of the University of Michigan Alumni Association. I appear here today, however, in my capacity as the President of the United States Wrestling Federation, a non-profit amateur sports organization with its headquarters in Stillwater, Oklahoma.

USWF was formed in 1968 by a group of organizations and individuals, both inside and outside the American educational community, who were dissatisfied with the structure and results of this country's programs in the so-called international styles of amateur wrestling. Those programs had been conducted by the Amateur Athletic Union (AAU) under a multi-sport umbrella for many years, and the organizers of USWF felt that American amateur wrestlers could be better served by an enterprise devoted exclusively to the promotion and development of wrestling, and wrestling alone.

I will not burden you with the indicia of our growth and success over the past 10 years; it is perhaps sufficient to say that we are today the largest organization in the United States devoted to the development of amateur wrestling, last year having registered approximately 61,000 wrestlers, some 25,000 more than the AAU.

My purpose in appearing here today is to express the opposition of USWF to an appropriation of public funds in favor of the United States Olympic Committee, under present circumstances. I do so because of our conviction, based upon our own disheartening experience with the USOC and its procedures, that the assumptions upon which Congress originally based its authorization of these funds -- implementation of the principles of the Amateur Sports Act -- simply are not being fulfilled by the USOC, and indeed, are apparently not even accepted by the groups controlling that organization.

As you know, the Amateur Sports Act was passed by Congress in late 1978, and in effect reorganized the USOC by an almost complete rewriting of its Federal charter. The purpose of the Act, according to the House Judiciary Committee, was to set the USOC up as a "coordinating agency" of our international sports effort. This was to be accomplished by bringing together, under the USOC coordinating umbrella, all of the "national governing bodies" for the various Olympic and Pan American sports, and by establishing qualifying standards to be met by any sports organization before it could be recognized by the USOC as a national governing body (NGB). Most important among the NGB standards were the requirements that an organizational candidate for national governing body status be able to show that it was autonomous, was truly representative of the various constituencies in its sport, and governed the sport with a fair and even hand.

Enforcement of these qualifying NGB standards was in the main to be accomplished through the mechanism of binding arbitration, under procedures of the American Arbitration Association. It is simply not possible to overstate the importance of binding arbitration under the Act; it was and is in fact the keystone of the entire structure put into place by the Congress. It seems obvious that in order for the newly-established NGB standards to have any meaning, they must be enforceable in some forum. That forum, as recommended by the 1978 Report of the President's Commission on Olympic Sports (PCOS) upon which the Act was based, was binding arbitration under the auspices of the AAA:

> . . .[P]revious sports studies, and previous attempts at legislation, have recognized the need for a workable mechanism to resolve franchise disputes. However, the proper mechanism, one which is both workable and acceptable, has eluded creation. Obvious inequities exist in a system in which franchise holders decide the merits of franchise challenges. Yet this is precisely the condition which many perceive to exist. Attempts to move franchise decisions to the realm of a group of Presidential appointees (S.3500) were met with loud opposition from much of the sports community because government interference is anathema to them.
>
> * * * * *
>
> The Commission solution: to establiah precise criteria to which NGBs must adhere, and then have franchise decisions adjudicated by the American Arbitration Association (AAA), in accordance with present USOC procedures. The AAA's decision would be binding. The result: decisions are made by an organization (the AAA) recognized as impartial by present USOC members; the international community accepts the arbitration process as it is essentially the same as the current practice; the existing franchise holders are bound by the AAA's decision; and there is no governmental interference in the process.

The Act, responsive to the Report of the President's Commission, contemplates binding arbitration in two contexts: First, when an individual or organization has a "complaint" against a national governing body; and second, when a sports organization -- believing itself better qualified under the stated NGB standards set forth in the Act -- wishes to "challenge" the incumbent for national governing body status. Both procedures involve an internal hearing before a USOC body, followed by a hearing before three independent arbitrators, under AAA procedures, if the matter cannot be resolved internally.

The idea of binding arbitration of a "challenge" for national governing body status did not have its genesis with the PCOS Report, or with the passage of the Act. The USOC included such a proceeding in its Constitution, beginning in 1974. Since that time, there has been one "challenge" for national governing body status. It was brought by my organization, USWF, against the AAU in the summer of 1977, to determine which organization was better qualified under USOC-defined NGB standards (not dissimilar to those found in the Act) to act as the national governing body in wrestling.

We won, by the unanimous vote of three independent arbitrators selected under AAA procedures -- after 17 hearing days, 31 witnesses, and 4,000 pages of transcript. The binding award, which in due course was judicially confirmed by both the United States District Court in Chicago, and the United States Court of Appeals for the Ninth Circuit, states as follows:

> The UNITED STATES WRESTLING FEDERATION has established its claim for recognition as the Group A member of the UNITED STATES OLYMPIC COMMITTEE for AMATEUR WRESTLING and is entitled to replace the AAU WRESTLING COMMITTEE, AMATEUR ATHLETIC UNION OF THE UNITED STATES, INC., as such member.

Entitlement to USOC Group A membership, awarded by the arbitrators, represented entitlement to that class of USOC membership reserved to the USOC-recognized national governing bodies for the Olympic and Pan American sports. As a result, we thought we had achieved a long-sought goal, fair and square, in an independent forum.

Are we thus today the USOC-recognized national governing body for amateur wrestling? No, we are not. Despite the arbitral award and its judicial confirmation, the USOC -- under whose "binding" Constitutional procedures we arbitrated in the first place -- has refused to recognize us, has continued to recognize the AAU, has opposed our recognition in the judicial proceedings brought by us to enforce the award, has claimed that the ultimate decision is up to sports entities located abroad, and has -- most recently -- called for negotiation of a "solution" to the matter, based upon the premise that USWF, as the winner of the arbitration, should now join the AAU, the arbitral loser.

The AAU for its part, theoretically contractually "bound" by the arbitral result, has simply ignored the award and has claimed that the matter cannot be decided in this country by arbitrators, or by the USOC, but must be decided by the international wrestling federation in Europe, FILA. It goes without saying that having lost the arbitration, AAU refuses to resign from the international federation; so much for the "sportsmanship" that the AAU preaches to American youth.

In short, the binding challenge arbitration of the 1974 USOC Constitution, the substance of which was carried over to the Amateur Sports Act as a central feature of NGB accountability, has proven in our case to be a fraud. And we regret to say that a challenger under the new arbitral provisions, mandated by the Act, would fare no better than

we did: The same defects or impediments in the procedure exist today, after passage of the Act, as existed under the old USOC Constitution.

What are these impediments, preventing a fair and enforceable challenge procedure? In point of fact, they all flow from a single source -- the USOC's commitment to act in this country as the recognized affiliate of the International Olympic Committee (IOC). The USOC pursues that commitment steadfastly, while at the same time purporting to be the coordinating agency for and principal developer of the United States' international sports effort. Try as the USOC leadership will to hide or obfuscate the truth, these two USOC purposes on many occasions simply do not mix. In the case of our challenge, they produce a USOC leadership talking out of both sides of its mouth at the same time and, in any case, doing only so much to support the challenge arbitration result as that leadership is sure will not offend their ultimate master, the IOC. In this respect, the attitude of the USOC's leadership is not dissimilar from its attitude toward our Government's decision not to participate in the Moscow Olympics: It cannot, or will not, stand up to the IOC to support this country's national interest or institutions.

The USOC's problem in our case stems from the fact that it is required, under the IOC Charter, not to recognize an organization as "national governing body" for an Olympic sport, unless that organization is first recognized as such by the IOC-affiliated international federation for that sport, or in the sport of wrestling, FILA. This requirement is expressly spelled out in IOC Rule 24 and the Bylaws thereto, to which the USOC has subscribed as part of its recognition by the IOC.

Thus, when a challenge is held for NGB status in a particular sport, and the challenger wins, the only step the USOC is prepared to

take is to recommend the challenger to the international federation. If the international federation is not willing to accept that recommendation -- and that is the apparent position of FILA here* -- the USOC merely shrugs its shoulders and says to the challenger: "Sorry, we've done all we can do. Too bad you wasted all that time and money on a binding arbitration under our Constitution". And that's effectively what the USOC has done in our case.

What the USOC has done to us, and what they will do to any other challenger in similar circumstances, is essentially to sell out to the international federation and the IOC. Rather than impartial U.S. procedures deciding who is best qualified to act as NGB, the USOC will leave it up to the international federation. And the latter, knowing that the USOC is bound by IOC Rule 24, will simply ignore the arbitral result, and do whatever it chooses to do. Thus, the FILA Law Commission in our case has already dismissed the USOC's arbitration procedure in the following terms:

> Such investigation by any [arbitral] tribunal cannot be taken into consideration by FILA. FILA . . . is an international body with its own rules and under no circumstances should it be influenced by internal fluctuations in a country.

Now the USOC, in its quest for Federal taxpayer money, will tell you that things will be different under post-Act challenge arbitrations. Don't believe it. Last year, at the express request of the USOC's Executive Director, Col. Miller, the USOC House of Delegates reinserted into the USOC Constitution a requirement that to be binding

*At the time USWF brought the arbitration in 1977, the FILA rules made rather clear that FILA would accept the recommendation of a National Oympic Committee on national governing body status. Then, when it began in the late summer of 1978 to appear that we might win the arbitration, FILA suddenly changed its rules to say that even if a National Olympic Committee recommended replacing an incumbent, FILA would not do so if FILA thought the incumbent was doing a good job.

on the USOC, an arbitral award must not be inconsistent with the IOC Rules. Thus any future challenger will confront the same stone wall we have confronted -- the IOC mandate that the USOC not recognize any national governing body other than that body recognized by the international federation.

In the last analysis, the issue is whether the question of NGB status is to be decided in this country, under our procedures, by our tribunals, or is going to be decided abroad. Clearly, the USOC leadership is content to follow the latter course, if not to follow that course would violate the USOC's commitment of fealty to the IOC. And indeed, since the USOC is controlled by incumbent NGBs, there are many within the USOC who would be delighted in any event that the arbitration process proves unenforceable -- since this leaves them insulated from future challenge.

Under the circumstances, we at USWF think its highly inappropriate for the USOC, subservient as it is to private sports bodies abroad, to seek funding from the United States Congress. We are certainly not alone in this view. Senator Ted Stevens, a principal author of the Amateur Sports Act and a member of the PCOS, wrote to USOC President Robert Kane as follows, last June 4, after learning that FILA had rejected the USWF-AAU arbitral award:

> This action by FILA must not be allowed to stand. As I stated in April to the [USOC] convention delegates, in order for the Amateur Sports Act to be effective, arbitration must be on demand, swift, and final. Without binding arbitration, there can be no true enforcement of the Act. It is imperative that the United States Olympic Committee support the Act and show strong leadership on this issue. It threatens to both destroy the effectiveness of the Act and stand in the way of efforts to successfully appropriate funds needed to implement it . . .

> Should this controversy continue to be outstanding at the time we try to get approval from Congress for the $16 million for the Amateur Sports Act, I have serious concerns as to whether or not our efforts will be successful. It is important that during these early days following enactment of the bill that we exercise strong leadership and dedication to the principles espoused in the Amateur Sports Act. (Emphasis added).

In our judgment, unless and until the IOC changes the terms of Rule 24 to permit NOCs to name their own national governing bodies, or unless and until the USOC makes clear its own determination not to abide by that Rule or acts otherwise to assure the finality and enforceability of the arbitral process, the USOC simply should not be allowed Federal financial assistance. Granting of funds would be tantamount to Congressional approval of the USOC's position, and we simply cannot believe Congress so approves.

In closing, I would parenthetically point out to the Subcommittee that there presently pends before the USOC a proposed Constitutional amendment, which would require a losing incumbent in challenge arbitration to resign from the international federation. Passage of such an amendment would represent a great step forward in improving the enforceability of a challenge arbitration, since it would leave the international federation little alternative but to recognize the winning challenger. If it did not, it would have no member in this country. Not surprisingly, the USOC Executive Board -- dominated as it is by incumbent national governing bodies -- has recommended to the House of Delegates that the House not adopt this amendment.

We merely suggest that if the USOC House of Delegates, which will be meeting in approximately ten days, wishes to show the Congress its commitment to the principles of a final and binding arbitration under

the Amateur Sports Act, it has a great opportunity to do so by passing such an amendment. We strongly suggest, in any event, that the Subcommittee determine the action of the USOC House of Delegates on this amendment and take it into account in connection with its consideration whether the USOC is entitled to appropriation of American taxpayer funds.

Thank you very much for your attention.

Mr. BAY. Thank you. Mr. Chairman and members of the subcommittee. My name is Rick Bay. I am President of the United States Wrestling Federation, and I am here to urge this committee to refrain from any action which would result in the allocation of any government funds to the United States Olympic Committee. My request stems from my belief that it would be inappropriate to provide U.S. tax dollars to an organization that is controlled in part by foreign entities.

In the summer of 1977, the organization I represent, the United States Wrestling Federation, challenged the incumbent USOC national governing body for the sport of wrestling, known as the Wrestling Division of the Amateur Athletic Union, for that same recognition under the procedures set forth for binding arbitration in the USOC constitution and now in the Amateur Sports Act of 1978.

We were victorious and, in accordance with the USOC constitution and the USOC's own legal counsel, should have been immediately recognized as the new national governing body for wrestling on the USOC Executive Committee.

Now, over two years later, the arbitration notwithstanding, nothing has changed. The USOC still has not seated us and we are told they cannot do so until we are recognized by the International Sports Federation for Wrestling, known as FILA which has headquarters in Switzerland.

FILA, however, continues to recognize only AAU and says it does not accept the concept of binding arbitration to settle sports disputes, and is not bound by either the USOC constitution or any congressional action having to do with the Amateur Sports Act. In other words, FILA is dictating to the United States who our representatives shall be in international competition, even if it is an organization already judged inferior through procedures established by the United States Olympic Committee.

And by virtue of its presumptuous role in United States Olympic matters and the USOC's humiliating acceptance of the situation, FILA is further dictating to the USOC how America should fund part of its Olympic efforts since developmental moneys are reserved exclusively for USOC national governing bodies, or in this case, the organization FILA has chosen to accept. Despite USOC claims to the contrary, the USWF-AAU wrestling controversy has demonstrated beyond any doubt that the USOC is not only not autonomous, but is not free to even name its own representative to the various international sports federations.

Most significant, however, is that the USOC has still not asserted itself in this country by seating USWF in its rightful spot as the U.S. governing body for wrestling. It seems to me that any organization wishing to impress upon the world the degree of its autonomy would force the issue and say simply: "Here is our representative. It has been judged the best organization to govern wrestling in this country and it meets all the qualifications of the international body it wishes to join. Since we alone claim the right of selecting our representatives to your organization, you must accept our designate or be left with a void in your ranks in terms of U.S. membership."

It is time to stand on principle on this issue and put an end to the USOC's heretofore disgraceful posture with FILA of "participation at any price" including the prostitution of its own constitution.

As Senator Ted Stevens of Alaska, who sponsored the Amateur Sports Act of 1978, said last April in an address to the U.S. Olympic Committee House of Delegates: "Remember the great pains we took in the consideration of the Act to avoid any reference to any powers of the International Olympic Committee or other international governing bodies. That was intentional. The Congress cannot support and authorize funding of an organization which is not directly accountable to the American people for its actions and in control of its own destiny. It cannot take direction from any international group regarding internal matters."

But the Senator's message has gone unheeded by the USOC. After the AAU's experience with arbitration, the other USOC national governing bodies, which really run the USOC, are now running scared and are counting on their relationships with their international federations to subvert the intent of binding arbitration in this country.

Thus, I implore this committee to take whatever action is necessary to affect the withholding of the allocation of any funds whatsoever to the United States Olympic Committee until the United States Wrestling Federation is properly seated as a USOC member and until the USOC adopts an amendment to its constitution which would necessitate the seating on the USOC Executive Board of a victorious challenger in an arbitration hearing, regardless of any international considerations, and which would make it mandatory for a losing incumbent to resign immediately from the appropriate international federation.

Only then can the USOC guarantee an Olympic effort which truly provides the best America has to offer.

Thank you.

Mr. HIGHTOWER. Thank you for your testimony, Mr. Bay.

Mr. O'Brien, do you have any questions?

Mr. O'BRIEN. Mr. Bay, did you win the arbitration?

Mr. BAY. Yes, sir.

Mr. O'BRIEN. Who initiated the appeal or who initiated the action in the Federal District Court?

Mr. BAY. The AAU.

Mr. O'BRIEN. The loser in the arbitration?

Mr. BAY. Yes.

Mr. O'BRIEN. You prevailed in the district court and the circuit court of appeals?

Mr. BAY. Yes, sir.

Mr. O'BRIEN. Has the Supreme Court declined to hear any further appeal?

Mr. BAY. No, sir. There is action pending now in the court here in Washington.

Mr. O'BRIEN. Then the Supreme Court is apparently going to rule on that; is that correct?

Mr. BAY. No. It has not been taken to the Supreme Court.

Mr. O'BRIEN. I am not getting too legalistic, but if all these authorities indicate that you should supplant the AAU, shouldn't

you be entitled to some kinds of injunctive relief, commanding to substitute you for the other one?

Mr. BAY. We feel that we should. We have sought that action and there is action pending. I will have to ask my attorney as to that.

Mr. O'BRIEN. Would you identify yourself?

TESTIMONY OF MICHAEL SCOTT

Mr. SCOTT. My name is Michael Scott, counsel for the United States Wrestling Federation here in Washington. After confirmation of the arbitral award by the federal courts, we brought an action to enforce the award in the Superior Court of the District of Columbia. The court declined to compel the AAU to resign from the international federation, not finding that requirement to be expressly spelled out in the arbitral contract.

We believe that the reason that we were not able to persuade the court to put on the injunction that you suggest is because the United States Olympic Committee, which was also a party to that action and pursuant to whose constitution we arbitrated this in the first place, argued to the court that they could take no action with respect to seating us until the international federation, which is beyond the jurisdiction of our courts, took action to seat us.

As a result, the arbitration taken, though unanimously decided, confirmed by the federal courts, appears to have no meaning. We are confronted with the hostility of an international federation for wrestling which is not present in this country. So we have no way of suing them.

We continue to hope that the court, after we have made one final appeal to the international federation, will change its mind and compel the AAU to resign. But that has simply not happened. We are not there yet. We have the opportunity to appear in Moscow in July before the international federation and state our case. The FILA executive board has already said that they do not regard arbitration as an appropriate means of settling these disputes and we are not optimistic, frankly.

Mr. O'BRIEN. So you are sort of in a "chicken or the egg" situation. Maybe you should have done it down below.

Mr. SCOTT. It has always been thus with respect to international circumstances. The international federation sends you to the Olympic Committee, the Olympic Committee sends you to the National Federation. The Amateur Sports Act was supposed to solve this problem, but it has not.

Mr. O'BRIEN. It is timely to suggest that you don't know which one is Pilot and which one one is Herod. But it doesn't seem to be working.

Mr. BAY. It seems to me those issues ought to be settled in this country, international organizations notwithstanding. If we qualify, the United States Olympic Committee should have the right to name its own representatives to those international bodies. But the USOC has been unwilling to take a stand on those issues because of their relationship with those international bodies.

Mr. O'BRIEN. Thank you.

Thank you, Mr. Chairman.

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Mr. HIGHTOWER. Who made preliminary plans for the wrestler's participation in the Moscow Olympics?

Mr. BAY. The AAU. In other words, the losing incumbent was going to continue to govern wrestling in this country and prepare our wrestlers for the Olympics because the United States Olympic Committee continues to recognize them despite the arbitration and despite their constitution.

Mr. HIGHTOWER. Did they make the preliminary plans?

Mr. BAY. Yes, sir, as far as they could go. Our organization is not allowed, under the restrictions that exist, to have anything to do with the international competition, unless we go through the national governing body in this country which is the AAU.

Mr. HIGHTOWER. Thank you very much.

TUESDAY, APRIL 1, 1980.

U.S. METRIC BOARD

WITNESS

HON. ELDON RUDD, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARIZONA

Mr. HIGHTOWER. We will be happy to hear from Mr. Eldon Rudd, a member of Congress, at this time.

Mr. RUDD. Mr. Chairman and members of this august committee, it is a privilege to be here today. I appreciate the opportunity to discuss with you and provide testimony concerning the situation involving the metrication that is in existence now and the Metric Board and its activities.

Mr. Chairman, members of the subcommittee, I appreciate this opportunity to testify concerning the fiscal year 1981 appropriation request of the U.S. Metric Board.

I continue to be greatly concerned by the Metric Board's advocacy and imposition of metric usage and changeover in all Board activities, contrary to the letter and intent of its enabling statute.

The Board was instructed by Congress last year in connection with its fiscal year 1980 appropriation to cease these pro-metric advocacy activities, and to implement the recommendations of the Comptroller General in his October 1978 metric report to the Congress.

The Board, despite its claim to the contrary in response to my submitted questions which appear in volume 1 of your fiscal year 1981 hearings, has not followed these instructions.

I would like to submit for the record an exchange of correspondence on this matter between myself and Board Chairman Louis Polk. As you will note, my March 20 letter cites 10 specific ways in which the Metric Board has violated the spirit and letter of Public Law 94-168, its organic act, and subsequent directives from Congress. My letter also includes an itemized listing of the 12 GAO recommendations directed to the Metric Board, and commentary showing that none of the recommendations has been implemented as claimed.

[The letter referred to follows:]

ELDON RUDD
4TH DISTRICT, ARIZONA

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COMMITTEE ON APPROPRIATIO

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TASK FORCES:
DEFENSE AND INTERNATIONAL AFFAIRS
INFLATION

COMMITTEE ON COMMITTEES

Congress of the United States
House of Representatives
Washington, D.C. 20515

January 22
19 80

Dr. Louis F. Polk, Chairman
U.S. Metric Board
1815 N. Lynn Street, Suite 600
Arlington, Virginia 22209

Dear Dr. Polk,

This is to acknowledge the invitation for me to attend the U.S. Metric Board's public forum, scheduled for Feb. 14-15 in Phoenix, in order to present my views on metrication.

It would not be appropriate for me to accept such an invitation since the U.S. Metric Board continues to ignore specific directions from Congress with regard to its activities under the law.

As you know, the Board was instructed by Congress in conjunction with its FY 1980 appropriations not to be an advocate of metric conversion in the United States, and to present all the disadvantages along with any purported benefits of metric in any Board publication or activity. The Board has ignored and even defied these instructions. The most notable recent action in this regard is the Board's continuing campaign to persuade the Nation's retail gasoline stations to sell gasoline by the liter instead of by customary measuring unit. The added inconsistency of this action is that the liter was discarded as an inaccurate unit of metric measurement under the International System of Units (SI) in 1964, and SI is the specific metric system designated for voluntary use under the 1975 Federal statute.

Further, the Board has failed to inform the American public of the findings and recommendations of the General Accounting Office, which Congress instructed the Board to implement, through Board publications and meetings. The Board has also failed to coordinate implementation of these October, 1978 GAO recommendations throughout the Federal Government, as directed last year by Congress through its appropriations action. The Metric Board's Interagency Committee on Metric Policy even went so far as to publish in the Federal Register on Jan. 8th a purported "Metric Conversion Policy for Federal Agencies," which totally ignored the GAO recommendations and took a quite opposite approach from that directed by Congress under the FY 1980 appropriations. This published policy instructs Federal agencies to take a lead in metric conversion and use, and completely ignores the voluntary nature of public use of metric. In fact, the word "voluntary" appears nowhere in this Metric Board policy notice in the Federal Register.

In light of these Metric Board actions, which in my view are designed to impose metric upon the American people and business in defiance of the expressed intent of Congress to the contrary, I will not participate in the meeting being held by the Board in Phoenix on Feb. 14-15. I do not support the actions of the Metric Board, and by copy of this letter I am communicating my concerns to other Board members and to my colleagues in the Congress.

Sincerely,

Eldon Rudd

Eldon Rudd
Member of Congress

ER:av

cc: Members of the U.S. Metric Board
Members of Congress

Mr. RUDD. Mr. Chairman, the Metric Board has submitted a budget request of $3,841,000 and 50 permanent positions, an increase of $1,294,000 or 51 percent over its fiscal year 1980 amount, and 14 additional positions, a personnel increase of 39 percent over the current level.

Owing to the Board's deliberate persistence in violating its own organic act and the express instructions of this Subcommittee, I wish it were possible to appropriate no funds to the Metric Board for fiscal year 1981.

I will certainly continue to press for elimination of the Board through repeal of its enabling legislation, as proposed by my bill, H.R. 739, which has been referred to the Committee on Science and Technology.

Because the Board has persisted in defying the instructions of Congress that it not advocate or impose metric use or changeover, I would ask the Subcommittee to substantially reduce the Board's fiscal year 1981 appropriation below current levels.

I certainly hope that your recommended appropriation will not exceed the level of $1,613,000 which the Subcommittee recommended for the Board's fiscal year 1980 program. The Board's record this fiscal year has certainly justified the lower House amount.

A budget reduction would also be in line with the President's attempt to cut all possible programs and personnel levels, rather than to increase them so dramatically in unessential areas at a time of mandated restraint.

METRIC BOARD MEETINGS

The Board is seeking a 66 percent increase, and more than double the amount for travel funds, so that it can hold monthly rather than bi-monthly meetings in different cities throughout the country.

Such a meeting held in my own Congressional district last February demonstrated quite clearly how the Board uses these meetings as a travelling road show to advocate and promote metric conversion contrary to the law.

Because of my criticism, I am sure, the Board made an added effort to bring in several anti-metric spokesmen for the public forum during the Phoenix meeting.

But as always, the Board hired a local direct marketing firm to help organize favorable media exposure during the two-day meeting, despite its own large in-house PR operation.

One Board member's interview arranged with a daily Phoenix newspaper illustrated how the Board uses these travelling meetings to promote metric as "a better system" than our own American measurement system, and to point to the "inevitability" of metric conversion as a way to speed up the conversion process among the public and business. I would like to include that story in the hearing record:

[The information follows:]

[From the Arizona Republic, Thursday, Feb. 14, 1980]

SWITCH BY U.S. TO METRIC SYSTEM FORECAST IN 10 YEARS
(By Susan Leonard)

The metric system probably will be the predominant measuring system in the United States within 10 years, a member of the U.S. Metric Board said here Wednesday.

"In my mind, there's no doubt that it's inevitable," said Sydney D. Andrews, director of Florida's Division of Standards. "It's in the country's best interest."

Andrews, who was appointed to the 17-member metric board by President Carter, is in Phoenix to attend a board meeting and public forum today and Friday at the TowneHouse, 100 W. Clarendon.

The board meets bi-monthly, each time in a different city.

Several speakers, both opponents and proponents of metric conversion, are scheduled to address the board from 9 to 11 a.m. today. An "open mike" period in which the public may voice opinions or ask questions is scheduled after the formal remarks. The rest of the day and Friday will be devoted to board business matters.

The Metric Board, an independent federal agency, was established by Congress to plan and coordinate the voluntary use of the metric system, a decimal system of weights and measures.

Andrews said he thinks the United States should switch systemically to the metric system because the measuring system used now is "an old, cumbersome, antiquated, complicated system that we inherited from the British, who are switching over to metric themselves."

He said many Americans agree and are making the switch to metric.

"From a manufacturing point of view, an industrial point view, we've made some progress," he said. "From a government point of view—federal, state and local government—we are still very slow in getting the program going. In the marketplace, we are making some headway, but in my opinion it's much to slow."

If the United States is to remain a world leader, Andrews said, it must switch to metric—a system used in 90 percent to 95 percent of the world's nation.

"I just don't see how this country can continue to be a world leader in manufacturing, in export and in general commerce and operate on a measurement system that is unique," he said. "I think we must adopt a measurement system that is the same as everybody else's. It makes our goods universally acceptable."

He said conversion won't be as difficult as many people think.

"There's nothing to be feared," he said. "It's going to be painless. Once you get a very basic knowledge of the metric system, you're going to think, 'Why in the world have we been laboring under this old cumbersome system all these years?'"

Mr. RUDD. I urge the Committee to direct the Metric Board to end its travelling metric promotion and advocacy efforts, by holding its bi-monthly meetings in Washington. There is no evidence to support the need for more frequent meetings, or the need for increased compensation and travel funds for Board members and permanent staff for this purpose.

PUBLIC AWARENESS AND EDUCATION

The Board's request for almost double its current funding for "Public Awareness and Education" should also be denied. Reduced funding for this purpose is more appropriate, in light of the way that these funds have been misused for pro-metric advocacy and promotion rather than for a legitimate program to make the public more aware and more educated about metric usage.

In fact, I have been informed that the Board has refused a request to publish a guideline on International System of Units (SI) metric usage, which would seem to be an elementary requirement rather than metric advocacy.

Instead of providing such a published guideline, the Board staff has referred citizens and businesses to the American National Metric Council, a private pro-metric organization whose former

President is now Executive Director of the Metric Board, and to the American National Standards Institute, another private pro-metric organization.

Board testimony before the Committee last January indicated that increased media appearances and Board member contact by newsletter and other mailings to constituency groups, as well as additional pro-metric education programs, will be initiated with increased funding.

Again, there is no real need for these Federal Government metric advocacy initiatives. Since the Board refuses to assume its legislated role of neutrality and objectivity, pointing to disadvantages of metric changeover as well as purported benefits, increasing this area of funding would further undermine the intent of Congress through bureaucratic imposition of the metric system.

RESEARCH, COORDINATION AND PLANNING

The Board has requested an 82-percent program increase in the area of "Research, Coordination and Planning."

The mission-related research in conjunction with the Department of Commerce can certainly be continued at the same level recommended by the Committee for fiscal year 1980, which would mean a reduction rather than an increase in funding for this purpose.

The Board's outlined areas of issue-related research—workers' tools and training, small business impacts, metrication and international trade, Federal procurement impacts—all duplicate areas previously covered by the $1.4 million study of the National Bureau of Standards, completed in 1971, and the two-year $1.1 million study conducted by the General Accounting Office, completed in 1978.

The Board's representatives stated a need to update these two studies. However, I asked Comptroller General Elmer Staats if this was necessary during his recent appearance before the Legislative Branch Appropriations Subcommittee. He stated that a modest effort might be conducted to update the GAO findings, but clearly seemed to rule out any effort along these lines by the Metric Board in his insistence that such an update must be wholly objective and impartial.

The Board's research in issue-related areas seems to be well beyond the limited scope envisioned, and a complete duplication of work already done by NBS and the GAO. I urge the Committee to delete this request.

The Board's request for "Coordination and Planning" funds is highly inflated, since precious little if any activity along these lines has been conducted by the Board with funds already appropriated.

The Board acknowledged in its own testimony before the Committee that almost all metric conversion activity to date in the private sector occurred before the Metric Board began operation.

The American National Metric Council, a private organization, has shown itself quite capable of handling all voluntary metric conversion activities initiated in the private sector, without Metric Board or other Federal Government involvement.

The Metric Board, on the other hand, has shown itself to be quite negligent in metric coordination activities where the Federal Government has played a role.

P-METRIC TIRES

The tire industry requested Federal assistance in issuing vehicle tires with metric load and pressure ratings. Regulations were developed and published in the Federal Register by the National Highway Traffic Safety Administration.

The metric ratings were implemented and "p-metric" tires were marketed before safety testing and maintenance equipment using metric values has been placed into operation. In addition, the tires were mislabelled with incorrect symbols.

There is also a possibility that the kilogram load rating measuring mass is incorrect, and that the newton unit measuring force should have been used instead.

These mistakes were all the result of improper Federal actions, with or without coordination by the Metric Board. It is not even clear that the Metric Board itself, or its staff as presently constituted, has the technical competence to handle the vast array of coordination in the event of widespread metric usage.

METRIC BOARD PROMOTES LITER CHANGEOVER OF GAS PUMPS

In the area of metric conversion of gasoline pumps, the Metric Board has badly abused its planning and coordination role in an attempt to impose widespread public use and acceptance of metric throughout the United States.

The Board initiated a major effort to encourage sale of gasoline by the liter instead of the gallon when gas prices started their climb toward a dollar a gallon last spring, and it looked inevitable that a majority of the nation's 1.5 million gas pump mechanisms would have to be changed to accommodate the higher prices.

The Board held two days of pro-forma hearings which did not include input from all affected sectors, particularly gas station owners and motorists themselves, to kick off the effort.

A Board resolution and widely distributed official news release supporting and encouraging liter conversion of gaspumps were issued without benefit of proper cost-benefit analysis.

The exhaustive work of the General Accounting Office in this area, which projected few benefits to outweigh the many disadvantages and high costs of gaspump metric conversion, was totally ignored by the Board staff.

Several news articles showing how the Metric Board used this effort for metric changeover promotional purposes, in violation of its enabling statute and the intent of Congress, are submitted for the hearing record:

[The information follows:]

[From the Birmingham Post-Herald, Tuesday, Apr. 3, 1979]

$1 Gasoline Not All Bad to Metric Chief

Washington.—If gasoline prices hit $1 a gallon, the nation's service stations will have a good chance to go metric, changing their pumps to liters instead of gallons, the chairman of the U.S. Metric Board said Monday.

Such a revision would be opportune, said Louis Polk, because pumps will have to be redesigned. Most of them are now capable of dealing only with gasoline prices of less than $1 a gallon.

There are 3.785 liters to a U.S. gallon. With gas at $1 a gallon, the price would be about 26.5 cents a liter.

Polk said the change could be made during redesigning "at little or no extra cost. However, unless this change is adequately explained, consumers will assume that metrics caused the price hike, not the market economy."

He said businesses faced with any conversion to metric "must make every effort not only to ensure that the consumer is getting value for his money, but also that the entire process—is not unfairly tainted from inadequate explanations on cause and effect."

Polk told a news conference the gasoline pump change is "undergoing a great deal of analysis" in the industry, and it's not too late to make such a revision.

The board Polk heads was set up by a 1975 law designed to move the country, voluntarily, toward metric. The board has predicted the country will be predominantly metric by 1990.

Malcolm O'Hagan, the board's staff director, said a National Weather Service proposal to convert temperature readings and other measurements to metric figures is still alive and "undergoing refinement and final review."

Polk said industry must "continue to take the lead" on metric conversion because "no one wants unnecessary government involvement in any realm of our economic life."

He said the board is still studying possible recommendations to Congress to change the law on metric conversion, and may have such suggestions later this year.

In the meantime, he said, some state laws are blocking the move toward metric, because they prohibit the use of "complex sounding metric dimensions" for consumer packages of such basic commodities as milk, flour and butter.

The board, he said, will consider recommending changes in those statutes.

Alex Mair, a General Motors vice president, told the news conference all GM cars and trucks will be metric before 1990, and new GM front-wheel drive cars coming out later this month are already 90 percent metric.

So far, he said, GM has found that the benefits of metric conversion "exceed the costs considerably."

[From the Birmingham News, Sunday, Apr. 8, 1979]

Gasoline Priced at 26.9? Could Be Possible

Washington.—Oh, for the good old days when the sign on the pump proclaimed gasoline at 26.9 cents!

We may be seeing those days again before long, but if we do the sign will refer to the price of a liter, not a gallon. With gas-pump prices in a few areas already reported as having cracked the $1-a-gallon barrier, conversion to a metric system of measuring motor fuel is being seriously discussed.

The U.S. Metric Board, which works with the National Bureau of Standards, held a 1½-day meeting here this week to consider alternatives when the $1 gallon of gasoline becomes typical.

There are 3.8 liters in a gallon, and so $1 gas works out at about 26.3 cents a liter. At 26.9 cents—the common way of pricing motor fuel—3.8 liters would be the equivalent of $1.02 a gallon.

Going from gallons to liters at the gas pump is not just a way of fooling the public into thinking that gas is cheaper than it really is, the Metric Board explains. The changeover would probably save more than $200 million in pump-conversion costs, which would of course be passed on to the consumers.

The Metric Board was told that it would cost about $200 to refit each gas pump to record prices above 99.9 cents, but only about $50 to convert them from measuring gallons to measuring liters. With an estimated 1.5 million pumps in use in the United States, the saving would be considerable.

The figures on savings came from Ezio Delfino, chief of the Weights and Measures Department of the state of California, which traditionally paces the other 49 states in matters automotive.

Sydney D. Andrews of the Agriculture and Consumer Services Department of the equally car-happy state of Florida said a consumer-acceptance test of gas-by-the-liter

has already been conducted there. It didn't make much difference to consumers. Andrews. said.

[From the Birmingham News, Monday, Aug. 27, 1979]

RISING GAS PRICES MAY SPEED USE OF METRIC SYSTEM

(By Louise Cook)

The United States is still crawling along the road to the metric system, but the soaring price of gasoline may speed up the switch.

Authorities say it is easier and cheaper to convert fuel pumps to liters than to adjust them to register prices of more than $1 a gallon.

Bill DeReuter, a spokeman for the U.S. Metric Board, said a growing number of service station operators—particularly independents—are starting to sell gasoline by the liter. DeReuter said that $100 million could be saved by converting to liters instead of changing price-recording mechanisms.

It has been almost four years since the passage of the Metric Conversion Act, designed to encourage Americans to voluntarily adopt the measuring system used by most of the rest of the world.

Thus far, however, there have been few changes for the average consumer. The Metric Board itself did not get completely organized until last year; a proposal to convert road signs from miles to kilometers was abandoned because of negative comments.

In a report late last year, the General Accounting Office said the alcoholic beverage industry had done more to convert than anyone else. But the GAO also said: "Most wines and distilled spirits that were converted to metric sizes experienced unit price increases greater than those that did not convert."

DeReuter said part of the Metric Board's job will be "making sure that consumer interests are protected." He also said the board is not out to force people to go metric, that would be against the law. What the board does want to do, DeReuter said, is make sure that consumers understand the system when they are faced with it.

He said the main push toward metrics right now, is coming from multinational companies that want to be able to sell their products in the rest of the world. General Motors, for example, expects to be predomininatly metric within the next few years, DeReuter said.

Supporters of the switch to metrics concede there has been strong public oppostion to abandoning the traditional system of feet and inches, pounds and ounces. But they also say that a lot of the ill will is due to unfamiliarity and a lack of understanding.

"The anti-feeling will disappear," said DeReuter, noting that virtually every state has some kind of metric education program for youngsters.

To help educate the general public, the Metric Board has proposed spending more than half a million dollars for advertising, toll-free telephone information lines, publications and research studies.

INTERSTATE 19 METRIC HIGHWAY SIGNS

Mr. RUDD. One last example of the Board's failure properly to coordinate Federal Government action involves a project in my own State of Arizona to change interstate highway signs to metric-only distance information.

This project with funds from the Federal Highway Administration was initiated before passage of the Federal Aid Highway Act of 1978, Public Law 95-599. But funds for the project were expended by the Department of Transportation following enactment of this law's explicit prohibition against use of any Federal funds for such metric highway sign purposes.

The U.S. Metric Board invited the Arizona Department of Transportation to present a report on this Interstate 19 metric signing project at its February meeting in Phoenix. There had apparently been no prior Metric Board coordination of this Federal-State proj-

ect. At the Metric Board meeting, full disclosure was made of the Federal involvement and funding.

To my knowledge, neither the Board nor its counsel has taken action to inform State Officials or the U.S. Department of Transportation of the illegal use of Federal funds, despite the fact that the Board should by now recognize this clear violation by Federal officials of Public Law 95–599.

INTERAGENCY COMMITTEE ON METRIC POLICY

Mr. Chairman, further funds are requested in the Board's fiscal year 1981 budget for administative and other support of the Interagency Committee on Metric Policy (ICMP).

The ICMP and its questionable basis under the law are discussed in my correspondence with Chairman Louis Polk, which I have submitted for the hearing record.

The ICMP is comprised of Federal agency metric coordinators, and is chaired by Dr. Polk. However, according to a history of this committee's origination by the Department of Commerce and its subsequent establishment, provided to me by the Metric Board, the ICMP appears to be independent of the Board in its activities.

The ICMP published Federal Government policy and guidelines on metric usage in the January 8, 1980 Federal Register. This Federal Register notice contains mandatory language concerning Federal initiatives to encourage further nationwide metric changeover. This policy notice is not consistent with Public Law 94–168 and the directives of Congress to the U.S. Metric Board.

Wording for the ICMP charter is taken from an April, 1979 Department of Commerce administrative order establishing a 1985 timetable for conversion of the Commerce Department to metric usage.

A timetable for metric conversion, which was also alluded in the January testimony of Metric Board representatives before this Committee, was clearly rejected by Congress before enactment of Public Law 94–168.

Moreover, establishment of the ICMP as constituted appears to be a further attempt to circumvent the voluntary nature of metric usage under the law, by creating a mechanism to mandate Federal Government-wide metric conversion, and in turn to impose metric usage upon the private sector through government initiatives. This was also clearly rejected by Congress.

THE NEED TO ENFORCE CONGRESSIONAL DIRECTIVES AGAINST FEDERAL GOVERNMENT IMPOSITION OF METRIC

Mr. Chairman, it is clear from the expressed attitude and actions of the Metric Board majority that the Board intends to continue advocating and wherever possible to impose metric usage or adoption by the American people, business, and government agencies.

Congress instructed the Board to disavow this course in connection with fiscal year 1980 appropriations.

Failure of the Metric Board to follow those instructions indicates the need for bill language this year to enforce Congressional intent.

I hope that the Committee will include such language in this fiscal year 1981 appropriations bill.

Furthermore, Mr. Chairman, I hope that the Committee will approve funding for the Metric Board no higher than that recommended in the House's fiscal year 1980 appropriations bill. This amount will be more than sufficient for the Board to conduct its legitimate functions during fiscal year 1981.

The views I have expressed concerning the Metric Board's misinterpretation and abuse of Public Law 94-168 were shared in a memorandum to the Board from its two members representing U.S. labor unions.

I would like to submit that memorandum for the hearing record, as well as my own extrapolation of the high costs and hardships associated with the Metric Board's bureaucratic attempt to impose nationwide metric changeover, which I included in recent remarks before the Board of Directors of the National Cowboy Hall of Fame.

[The information follows:]

[Memorandum from Thomas A. Hannigan and Andrew Kenopensky, Members, U.S. Metric Board.]

June 8, 1979

TO ALL U.S. METRIC BOARD MEMBERS

At our request, the Executive Committee discussed, at its last meeting, the need to publically debate and to take a recorded vote regarding interpretation of the Metric Conversion Act (PL 94-168). It was agreed that, in view of the importance of this subject, other papers and positions would be necessary and thus, it would merely be an agenda item for the June meeting.

The purpose of this letter and its attachments is to explain our position on this critically important subject.

The recent U.S. Metric Board budget presentation to the Subcommittee on the Departments of State, Justice and Commerce, the Judiciary and Related Agencies states that it is "an independent Federal Agency for coordinating the voluntary conversion of the United States to the metric system" and further elaborates on this point with "the U.S. Metric Board is in a catch-up position with respect to fulfilling its responsibility to provide the necessary focal point for a smooth, coordinated conversion to the metric system in the voluntary changeover." At another point it contends "The program will effectively and efficiently coordinate the voluntary conversion of the United States to the metric system..." This interpretation of PL 94-168 is in direct violation of congressional intent and AFL-CIO policy. We are convinced that when the entire legislative history 1/ of the Public Law 94-168 is considered it will prove Congress, for many reasons, rejected the argument that metrication was in the national interest and thus, rejected a national policy of converting to the metric system and directing the Federal Government to encourage and/or facilitate conversion.

To date, this interpretation of PL 94-168 and support for it has mostly been by metric advocates from both private industry and the Federal Government. Two very important exceptions are the reports of the Comptroller General of the United States and the Congressional Research Service of the Library of Congress, which have been criticized and/or ignored by the Board. Very few other people have been interested enough to analyze this law and its legislative history thoroughly.

It should also be pointed out that the Senate Subcommittee on Science, Technology and Space has a different interpretation of PL 94-168 than that of the Board. Three of the questions it submitted to the U.S. Metric Board nominees noted that:

* the Board will have a coordinating rather than a planning function,
* the Board is to be neutral, and
* the Act clearly foresees the existence of a dual system in the United States.

Another question implied criticism of Executive Agencies that have attempted independently to develop and implement metrication programs without consulting other agencies or the Congress.

Metric advocates have exploited two main sources of confusion regarding national policy of the Metric Conversion Act.

The first is Section 3 of the Metric Conversion Act which consists of two provisions. One which "declared that the policy of the United States shall be to coordinate and plan the increasing use of the metric system in the United States". The other which established "a United States Metric Board to coordinate the voluntary conversion to the metric system".

The second source of confusion is the misunderstanding of the theme of "voluntary" conversion. Unfortunately, this misunderstanding has been enormously successful in promoting acceptance of conversion in other countries.

Metric advocates have systematically instigated confusion by creating a mythical legislative "history" and ignoring the actual legislative history. This mythical legislative "history" was written over three years after Congress took final action on metric conversion legislation. It consists of letters from retired Chairman Teague, Committee on Science & Technology, U.S. House of Representatives, present Chairman Fuqua, Committee on Science and Technology, U.S. House of Representatives, Chairman Stevenson, Subcommittee on Science, Technology and Space, U.S. Senate, to U.S. Metric Board Chairman Polk, plus President Ford's letter to the American National Metric Council (ANMC) and, most recently, the Carter Administration's statement at ANMC's Fifth Annual Conference.

In spite of these efforts, congressional intent regarding PL 94-168 will ultimately be determined by the courts and as any legal authority knows, the mythical legislative "history" will have little or no bearing. Unfortunately, however, great economic and social damage will be done in the meantime. Therefore, the Board itself could be subjected to legal actions from those adversely affected by conversion such as individuals, small businesses and other organizations that accepted the Board's present interpretation of PL 94-168. The burden will be on the poor and uninformed because larger organizations with highly paid legal resources know the United States is not committed to converting to the metric system and could even possibly avoid any involvement with the Board because of its precarious legal position.

For example, Mobil Oil Corporation's statement to the U.S. Metric Board at the Metric Conversion of Retail Gasoline Pricing Hearing of May 2, 1979 explained "More specifically, the law and its legislative history show that the national policy is not to prefer one system over the other, but to provide for either to be predominate on the basis of the voluntary actions of those affected."

Metric advocates have also influenced the U.S. Metric Board to ignore specific findings and recommendations of the Government Accounting Office (GAO) Report on Metrication, 2/ plus the mandate of the Legislative Reorganization Act of 1973, Section 236, to give careful consideration to the findings, objectives and recommendations of the GAO.

Several of the Comptroller General's more important findings are:

* it is not current U.S. policy to convert from the present customary system to the metric system;
* the 1975 Act and the legislative history show the national policy is not to prefer one system over the other, but to provide for either to be predominate on the basis of the voluntary action of those affected;
* the Board is not to advocate metrication, but to assist various sectors when and if they choose to convert;
* policy has been misinterpreted and within this context attempts have been made to convert to the metric system. It would seem that as a minimum, before voluntarily deciding to convert, there should be -- A clear understanding of the policy, -- Knowledge of the costs and benefits involved, -- An assessment of the impact on the sector involved and any related sectors, and -- A determination of the impact on consumers; and
* any attempts to arbitrarily increase metrication activity could seriously undermine existing policy and lead to unnecessary metrication. Due care, therefore, must be exercised in carrying out the policy.

Furthermore, in regard to national policy, the Comptroller General specifically recommended that the U.S. Metric Board:

* inform the American people that conversion is strictly voluntary and that our national policy does not favor the metric system over the customary system, or vice versa;
* ensure that its policies and actions do not advocate or discourage the use of one system over the other;
* ensure that state education agencies and the U.S. Office of Education coordinate the timing of metric conversion in education so that metric instruction in schools will be in phase with the needs of the Nation in order that time, effort, and money will not be expended to develop and teach a predominately metric program to students for a still non-metric society. Educators must be reminded that U.S. policy at this time is voluntary, which includes the option not to convert.

The confusion surrounding the Metric Conversion Act has been caused by well intentioned but over zealous or misinformed metric advocates and those individuals and organizations with a vested interest in promoting conversion. They benefit enormously by it and they simply refuse to accept the fact they were unable to pass a stronger law.

Persistence in permitting this confusion regarding the Metric Conversion Act and creating a mythical legislative history plus ignoring the Report of the Comptroller General and Section 236 of the Legislative Reorganization Act of 1973 will inevitably destroy the credibility and integrity of the U.S. Metric Board and thus, any chance of success in carrying out its mission.

In view of the consequences, it is extremely difficult to understand why the U.S. Metric Board would permit itself to be placed in such an irresponsible and indefensible position.

One possible explanation of the Board's refusal to accept neutrality as national policy and to implement GAO recommendations is that metric advocates have reacted out of a sense of desparation. Conversion has clearly lost momentum and has been floundering for the past three or four years. ANMC has a history of financial problems and has never received sufficient support of private industry to be successful. Plans to convert highway signs and weather service reports to metric met strong public resistance. Conversion of the Wine and Distilled Spirits industry has been very profitable but a consumer disaster. Congressional opposition to conversion has been growing stronger every day. The Canadian public is awakening to the fact it has been misled to believe that they must convert because the U.S. was committed to conversion. It is also becoming more obvious that implementation of many Canadian conversion plans cannot proceed because they are clearly dependent on U.S. conversion. Public opposition to conversion has intensified in Australia, Britain and Canada. Clearly, a policy of U.S. neutrality regarding the metric system would have far reaching international repercussions. Even more important without a commitment by the Federal Government to convert to the metric system, which includes facilitating and encouraging conversion, there would be very little voluntary conversion by U.S. private industry.

We are convinced the Metric Conversion Act of 1975 (PL 94-168) declares a national policy of planning and coordinating the increasing use of the metric system in the United States. It does not establish a national policy of metric conversion nor does it express any preference for the metric system over our customary system of measurement. Recognizing that some voluntary conversions were already taking place in certain sectors of the economy and anticipating that such voluntary conversions could increase, the Congress determined that these voluntary conversions be planned and coordinated so as to reduce costs and minimize disruptions. The choice was not metric over customary but planned voluntary conversions rather than unplanned voluntary conversions. The law remains as it has been since 1866 -- both metric and customary are approved for use in the United States.

The role of the U.S. Metric Board is a simple one -- it is to be true to the Act. Like the Act it is to be neutral and not prefer one system over the other. It is not to take metric initiatives but rather be responsive to the market place and public interest. The Board shall encourage metrication planning and coordinate such planning only when a particular sector of the economy indicates the desire to convert. In short, the U.S. Metric Board is established to plan and coordinate metric conversion activities in those sectors of the economy which initiate voluntary conversion activities, to conduct research on matters related to voluntary conversion and to assist the public to become familiar with the meaning and applicability of metric terms in daily life.

The U.S. Metric Board has a moral responsibility to interpret the congressional intent regarding the Metric Conversion Act of 1975 (PL 94-168) by a publically recorded vote. This will be the most important decision this Board will ever make and should be made only after thorough public discussion. It is critically important that each Board member accept full personal responsibility for the collective action of the Board. This should be a vote of individual conscience based on facts and not personal biases and emotions.

The attached paper will note the key references in the law's legislative history that pertain to national policy and the function of the Board. It will also respond to those arguments that have been the source of the confusion and comment on the voluntary conversion theme. Also attached for your information is the Congressional Quarterly Almanac's comprehensive history of metric legislation and a summary of the metric bills considered since 1972.

After thorough consideration of this paper and the other attachments, plus one hour of public debate, we, as representatives of the AFL-CIO and responsible to represent our constituency, call for a recorded vote on each of the following resolutions at the August meeting of the U.S. Metric Board.

1. BE IT RESOLVED: that it is the policy of the U.S. Metric Board to inform the American people that conversion is strictly voluntary and that our national policy does not favor the metric system over the customary system or vice versa, and

2. BE IT RESOLVED: that it is the policy of the U.S. Metric Board to ensure that its policies and actions do not advocate or discourage the use of one system over the other.

We appreciate your support and cooperation in this vitally important matter.

Sincerely,

Andrew Kenopensky. T. A. Hannig

FOOTNOTES

1/ Legislative history consists of all Congressional Reports, debates and statements relating to the enactment of a bill (legislation). A Presidential statement which is part of the signing ceremony is part of legislative history only if a veto is involved.

2/ BY THE COMPTROLLER GENERAL, REPORT TO THE CONGRESS OF THE UNITED STATES, "Getting A Better Understanding Of The Metric System-- Implications If Adopted By The United States"

The legislative history since 1972 for metric conversion has been extensive. Numerous conversion bills were submitted. There were seventeen days of hearings in both the House and Senate on eighteen bills and one Senate Joint Resolution. The total legislative history is documented by 2,229 pages. In general, all the bills except one, HR 8674, explicitly committed this country in varying degrees to converting to the metric system. Most included reference to facilitating and encouraging conversion.

It is extremely important to emphasize the fact that the bill (HR 8674) which passed did not commit this country to converting to the metric system, but stated very explicitly "that the policy of the United States shall be to coordinate and plan the increasing use of the metric system in the United States". All references to facilitating and encouraging conversion were omitted.

The legislative history which is most relevant to PL 94-168 began in the first session of the 94th Congress. The Subcommittee on Science, Research and Technology of the Committee on Science and Technology of the U.S. House of Representatives chaired by the Honorable James Symington held hearings on May 1, 6, 7 & 8, 1975. Six metric bills were the subject of these hearings. (HR 254, HR 627, HR 492, HR 6154, HR 6264 and HR 6177)

This paper draws from two principle sources: the Library of Congress Congressional Research Service Report QC 89 entitled "The Metric Conversion Act of 1975 - Legislative History and Implementation 1970-1978" which is in script type and the Congressional Record of September 5, 1975 and December 8, 1975 which is in quotes.

HR 254 was identical to the unamended version of HR 11035 which failed in the 93rd Congress. HR 627 would have made the metric system the sole system of measurement in the United States after an initial conversion period, and HR 492 was similar to HR 254. HR 6254, the Administration bill, was similar to HR 254, but did not specify a time frame for conversion. Finally, HR 6177, introduced by Mr. James Symington (Democrat/Missouri) at the request of the AFL-CIO 1/ reflected the views of labor. This bill, the Metric Monitoring and Assistance Act, omitted the time frame for conversion and provided for federal subsidies to labor and small business affected by the conversion. Similarly HR 6264 called for assistance to individuals and directed the Executive Branch to convert to the metric system.

Subsequent to the hearings, Mr. Symington introduced HR 7353, the Metric Conversion Act of 1975, on May 21. The new bill was similar to HR 6154, the Administration bill.

On June 26, 1975, the House Subcommittee on Science, Research and Technology discussed HR 7363 in a markup session and introduced a clean bill, HR 8674, which it reported on July 17, 1975.

Even after HR 8674 had been reported, some dissatisfaction 2/ continued within labor and small business. Representatives of these sectors met with Mr. Symington to discuss apparent conflicts between the policy statement in the bill and the language of the report. These conflicts were resolved and subsequently clarified in statements made by Mr. Symington during the House floor debate on September 5, 1975. Mr. Symington noted that the policy statement had evolved through several changes and was no longer clearly reflected in the existing long title which was:

> To declare, as a matter of national policy, that the U.S. will convert to the metric system of weights and measures on a voluntary basis. To provide a coordinating mechanism, the bill establishes a U.S. Metric Board with a membership of 25 persons broadly representative of all sectors of American society which will be affected by this change.

The amended title was:

> To declare a national policy of coordinating the increasing use of the metric system in the U.S., and to establish a U.S. Metric Board to coordinate the voluntary conversion to the metric system.

Representatives of labor had been concerned that the bill title would imply a declaration of U.S. national policy to convert to the metric system as opposed to the declaration of a national policy to coordinate increasing use of the metric system. The difference is more than semantics, for it reflects a different national policy with different long-term implications. The latter policy suggests coordination of usage rather than conversion to a new system. As a policy, coordination of usage of the metric system could mean continued use of a dual system of measurement in which the present system might predominate.

The change in policy also placed a greater responsibility on the private sector for initiating metric conversion. Although the legislation included a Metric Conversion Board, the Board was not intended to play a pro-metric role. Its function would be more neutral in that it would assist in advising and coordinating those sectors interested in converting, without maintaining any compulsory powers.

HR 8674 differed from earlier bills based on the recommendations of the U.S. Metric Study, primarily through the altered policy statement noted above.

As far as national policy and the function of the Board is concerned, Chairman Symington's statement to the U.S. House of Representatives, as explanation of HR 8674, is critically important and the following in quotes are a direct excerpt from the September 5, 1975 Congressional Record:

"Mr. Chairman, I would note at this point that the bill before the Committee today has gone through a number of changes.

The policy statement I just described has evolved through several changes, but it is not clearly reflected in the long title of the bill and we have concluded that a more accurate title for this bill would be the following:

(A bill) to declare a policy of coordinating the increasing use of the metric system in the U.S. and to establish a U.S. Metric Board to coordinate the voluntary conversion.

I want to advise the Members that in the event this bill is adopted by the House, the Committee intends to offer an amendment to incorporate this new long title for the bill. If adopted, this change would obviously also apply to the sections of the committee report where the purpose and policy of the bill is set forth.

Does the policy of HR 8674 mandate a change to the metric system? The answer is that rather than mandating a change to the metric system, the policy of HR 8674 responds to the problems associated with the increasing use of the metric system. The bill would do this by establishing a mechanism to coordinate the metric conversion activities, by studying the associated problems and by educating the public on the usage of the metric system.

In fact, one of the reasons for changing the title of the bill is to place the chief emphasis on the voluntary nature of the adoption of the metric system. By eliminating any reference in the title to a policy of adopting the metric system and emphasizing the coordination function of the Government's role, we expect to make it clear that the bill does not mandate the change but only aims at providing coordination based on voluntary participation.

When the words "change" or "conversion" to the metric system appear in the bill or the report, does this mean a total changeover to the metric system?

The Committee views the words "change" or "conversion" as describing the ongoing nature of the increasing usage of the metric system."

Following passage of HR 8674, the Senate Commerce Committee held two days of hearings on metric conversion on October 8 and 10, 1975. Three bills were considered: S. 1881 (Senator Inouye, Democrat/Hawaii) which was similar to HR 8674 3/; HR 8674 as referred by the House; and S. 100 (Sen. Pell, Democrat/Rhode Island), which provided for a 10-year conversion period.

The testimony presented at the hearings showed a favorable attitude towards conversion as provided for in HR 8674. Representatives of both labor and small business stated that metrication should not be undertaken for its own sake, but in cases where it was in progress, coordination was desirable.

S. 100 was discussed during a committee markup session and reported on November 26, 1975. As reported, S. 100 was similar to HR 8674, with slight differences. Floor debate was minimal and reflected general approval for the legislation.

The Senate Commerce Committee made it clear the Metric Board's role would be to help coordinate voluntary plans to convert. "The Board is not expected to advocate metrication" the Committee said "since in some instances members of an industry or economic sector may decide that the costs outweigh the benefits". 4/

Senator Inouye stressed in his statement -

"It must be made clear here that the bill being considered today does not make conversion compulsory or that the metric conversion is adopted as the sole system of measurement. Rather, the legislation establishes a mechanism for coordinating conversion and for assisting those sectors of society of the economy which decide to convert.

The bill would establish an independent U.S. Metric Board broadly representative of society, to devise and implement a comprehensive program of planning and coordinating the increased use of the metric system and to conduct public education consistent with other national interests...

In closing, I should stress again that the bill will leave the decision of metric conversion to the individual economic sector."

In summary, the preceeding text clearly establishes that: The long title of PL 94-168 is (a bill) "to declare a national policy of coordinating the increasing use of the metric system in the United States and to establish a United States Metric Board to coordinate the ~~voluntary conversion to~~ increasing use of the metric system."

The short title is The Metric ~~Conversion~~ Increasing Usage Act.

Section 3, as recorded in legislative history, now reads "It is therefore declared that the policy of the United States shall be to coordinate and plan the increasing use of the metric system in the United States and to establish a United States Metric Board to coordinate the ~~voluntary conversion to~~ increasing usage of the metric system.

Section 6 still reads "It shall be the function of the Board to devise a broad program of planning, coordination, and public education consistent with other national policy and interests with the aim of implementing policy set forth in this Act. In carrying out this program, the Board shall: ..."

It is clear and reasonable that both the long and short titles and Policy Section 3 are consistent. On the other hand, the Board's present interpretation is vague and unreasonable, since it contends that the mission of the Board is somehow separate and different from national policy. Thus, legislative history convincingly proves that Congress never intended to favor the metric system over the customary system and vice versa or that the U.S. Metric Board should advocate the use of the metric system.

The preceeding is a logical effective rebuttal to the arguments that the Short Title of PL 94-168 and/or a literal application of the second provision implies a national policy to convert to the metric system.

Another argument by advocates focuses on the language "It is therefore" in Section 3. This argument contends that this language logically links Section 3 to Section 2, which notes that -

(1) The United States was an original signatory party to the 1875 Treaty of the Meter ----

(2) That this nation is the only industrial nation which has not established a national policy committing itself to the metric system.

Both statements being obviously factual, advocates conveniently conclude that Section 3 commits this Nation to converting to the metric system. This is not only terribly bad deductive logic but another example of failure to read and apply the legislative history.

In this particular instance, it is simply necessary to combine background information with legislative historical reference. Chairman Symington, in his explanation of HR 8674, drafted the following rhetorical question regarding the U.S. Department of Commerce Study "A Metric America" which was the source of the finding.

> "How do the provisions of HR 8674 reflect the results of the Department of Commerce Study "A Metric America"?
>
> The Study served to focus the Committee's and the Congress' attention on the fact that the metric system would be used more widely in the United States. It is certainly a fact that today we are seeing more metric measurements in our everyday lives than we were in 1971. However, the country has changed drastically in other ways in the last 5 years -- and those changes are primarily economic. The committee feels that the projections of 1971 would not be the projections of today. With this in mind the committee felt that it was unwise to mandate a conversion to the metric system within a specified time frame and to make it a goal for the conversion that the country become predominately metric within that time period. Therefore, these recommendations of the Metric Study were not adopted. Although the bill refers to these and other recommendations in the Section on Findings, they have not been included in the Policy Section or in the Section setting forth the Duties of the Metric Board."

Chairman Symington's answer thus precludes any linkage of Section 2 to Section 3 and clarifies the relevance of the U.S. Department of Commerce Metric Study in future metric decisions.

The final section of this paper will deal with the concept of "voluntary" conversion. First and foremost, it is extremely important to fully understand that a successful voluntary conversion to predominate use of the metric system is impossible. No nation has ever succeeded in achieving predominate use of the metric system without mandating it. Make no mistake about it, metrication must be mandated. Euphemistically, metric advocates refer to this as mopping up or tying together the loose ends.

The voluntary aspect is a sugar coating to entrap unsuspecting legislators, the general public and government administrators. Unfortunately, or fortunately, depending on one's point of view, it has been very successful in misleading Australia, Britain and Canada.

Basically, there are two applications of the "voluntary" conversion theme. One theme means the government adopts a national policy of converting to the metric system and private industry "voluntarily" determines how and when. The actual choice of whether to convert or not to convert is, for all practical purposes, denied most individuals and organizations

because of the influence of the government. For the consumer, and taxpayer, under this scheme conversion is obviously not voluntary. Federal Agencies charged with facilitating and encouraging conversion voluntarily decide when and how to convert and their actions become mandates for the general public. Federal procurement policy and regulations are employed to mandate conversion. In reality, this is in effect a form of compulsion. The U.S. Metric Board would be free to spend millions of dollars for a propaganda program to promote the use of the metric system. U.S. tax dollars are thus used to facilitate and encourage, promote, and even mandate the use of the metric system. This apparently is the U.S. Metric Board's present application of the voluntary theme.

The other application of the voluntary theme is entirely different in that it is truly a voluntary approach. There is no national policy to convert to the metric system nor is there any preference for the metric system over the customary system. Federal Agencies are required to remain neutral regarding use of measurement systems but must respond to industry initiative. Federal procurement policies are prohibited from encouraging conversion. Federal Regulations are not permitted to require the use of the metric system or to prohibit the use of the customary system. The consumer's options are greatly expanded because metrication would be a private marketing responsibility subject to their dollar votes in the marketplace. The U.S. Metric Board would be limited to an objective public information program which would include explaining the mission of the Board along with other objective information. It would also be responsible for coordinating the increasing use of the metric system and conducting appropriate research programs. In this voluntary application metrication would be primarily a private engineering and marketing responsibility and tax dollars would not be used to encourage or facilitate conversion. This is the U.S. Congress' and the AFL-CIO's application of the voluntary metric theme.

1/ The AFL-CIO never requested this action.

2/ The Subcommittee Staff failed to redraft the title to reflect the new language in the bill and it attached the Committee Report of the 93rd Congress on HR 11035 to HR 8674.

3/ Actually S. 1882 was to establish a national policy to make metric units the predominate, though not exclusive, language of measurement.

4/ Senate Report 94-500 issued on November 26, 1975.

[Remarks of Honorable Eldon Rudd, Member of Congress, Fourth Congressional District of Arizona, before the Board of Directors of the National Cowboy Hall of Fame, Scottsdale, Arizona, February 16, 1980.]

At the outset, let me clear up some confusion about this whole metric situation.

I am not in opposition to the metric system for those who wish to use it but I am opposed to the authoritarian imposition of metric on the American people which is not the intent of the Congress.

It is not now, nor has it ever been U.S. national policy to convert to the metric system.

The law which created the U.S. Metric Board in 1975 was originally proposed by metric advocates as a means to change us over to metric.

But their mistaken view that the metric system is better than our own customary American system was repudiated when Congress completely changed the intent of the proposed legislation before enactment of the 1975 law.

Metric conversion as national policy was rejected by Congress.

Instead, the 1975 law continued our century-old policy of voluntary metric usage in conjunction with our own predominant American system.

The Metric Board was established only to help those companies and individual citizens who needed help in their voluntary decision to use metric, for whatever reason.

Congress rejected the proposed policy of national conversion to the metric system because there was no evidence that our people would benefit from such a radical change to metric weights and measures.

To the contrary, there were overwhelming disadvantages to metric, including exorbitant costs to convert, massive public confusion and hardship, and economic dislocations that would interfere with our entire national economy and productivity.

These disadvantages of metric conversion were confirmed by an exhaustive two-year study of the whole metric issue by the General Accounting Office, which resulted in a comprehensive 757-page report to Congress in October, 1978.

Following surveys and interviews of thousands of business and industry leaders in every sector of our economy, the GAO told Congress that no major industry or sector of our economy could see or show any benefits from metric conversion to warrant the massive costs and dislocations associated with changeover.

The cost would be so widespread and high that they could not be totally estimated by the GAO, but were generally stated to be in the many billions of dollars.

In addition, the GAO restated the massive public dislocations, hardships, and other negative results from national changeover to the metric system.

This voluminous GAO report included the following specific findings:

The total cost of metric conversion is indeterminable, but it would be substantial—in the many billions of dollars.

Metric conversion would result in higher consumer prices and reduced U.S. productivity.

U.S. economic activity and world trade have not been hampered or injured by a dual system of American and metric measurement, and there is no evidence that a solely metric system would be any better for our economy.

The purported benefits ascribed by proponents of metric conversion—for example, standardization and rationalization of measurements—have taken place under the American system without metric conversion.

The GAO found that the following sectors of our economy saw or could show no benefits from metric conversion to warrant the exorbitant cost, confusion, and inconvenience of changeover—

Transportation, the metal products industry, U.S. engineering standards, U.S. labor, the aerospace industry, surveying and mapping, the petroleum industry, automobile dealers, the fastener industry—screws, nuts, and bolts—the appliance industry, the paper industry, the rubber industry, government at all levels, and sports.

By the time of the GAO report to Congress, the President had completed all appointments to the 17-member Metric Board, and it was in full operation.

All but one or two of the appointees are hard-line pro-metric advocates.

Despite the intent of the 1975 law that it is not national policy to abandon our American system and convert to metric, the Board immediately set about to achieve this objective bureaucratically, using the power and resources of the Federal Government.

The results of this promotion effort were reported by the General Accounting Office.

The GAO report stated that the American public has the erroneous belief that it is national policy to convert to metric, and that this conversion is inevitable.

The GAO recommended that the Federal Government take actions to inform the public that it is not national policy to convert to metric, and that the metric system is not favored over our customary American system.

Pro-metric Board members showed their open contempt for the GAO findings shortly after its report was released.

At a Board meeting in Washington, similar to the one just held by the Board in Arizona, Board members were asked at a public forum for their view of the GAO study.

Board member Bruce Johnson, who represents U.S. science on the Board, said of the GAO report:

"I think we should let dead dogs lie."

Board member Roger Travis, who represents small business which is overwhelmingly opposed to metric conversion, said of the GAO metric report:

"As far as we're concerned, it'll get dust on it like anything else."

In my judgment, it is a gross public disservice and contemptible for an agency of the Federal Government to show such callous disregard for the well-being and smooth operation of our Nation's institutions—particularly business, industry and workers who are the backbone of our productivity—in order to impose metric conversion.

The Board has snubbed its nose at Congressional directives last year that it not favor metric over our predominant American system, and that the Board cease its pro-metric advocacy activities.

The Board has taken formal action to support the changeover of our Nation's 1.5 million gasoline pumps to sale of gasoline by the liter, instead of the gallon.

This action will force citizens to think in terms of metric and to use metric measurement, regardless of their choice, and to stop thinking in terms of miles-per-gallon.

It ignores the enormous cost imposed on retail service stations, which will have to run dual accounting systems and maintain dual inventories in both metric and customary American measures.

As coordinator of metric policy for the entire Federal Government, the Metric Board has encouraged the Department of Transportation to force the use of metric tire load and pressure ratings on passenger car tires.

The "P-metric tires are not compatible with customary tire gauges and service station air pumps, and are an obvious safety hazard.

The Board has also encouraged the Federal Highway Administration to change interstate highway signs to metric-only distance information.

We have one such Federal project here in Arizona, on Interstate 19 between Tucson and Nogales.

This replacement of American distances on highway signs with kilometers does nothing to improve driving comfort or shorten the travel time between two points.

It is merely an expensive way to force increased metric usage and acceptance on the motoring public, in spite of the unnecessary confusion and inconvenience that it imposes.

The Metric Board's most recent action in defiance of Congress has been the issuance of policy guidelines to all other Federal agencies, encouraging increased metric usage through "appropriate" government action—including the hint of using Federal contracting and procurement as a way to force business and individual contractors to move more quickly to metric.

Obviously the U.S. Metric Board is committed to using the full power of the Federal Government to impose metric conversion. The Board is not in the slightest bit concerned about the enormous cost of such an undertaking, or the fact that business and industry see no benefit from conversion, as reported by the General Accounting Office in its exhaustive report.

The evidence shows that the American people have no real need or desire to convert. Why should they? We only have to consider the startling harmful effects of metrication—the massive unwarranted costs and economic dislocations—to see why the public will suffer from this mysterious metric madness.

Metrication in the United States would affect every American at work, at school, at home, in shopping, and in their leisure activities. Every organization, company, industry, and level of government would feel its impact.

Metric conversion would force our people to abandon all their customary American ways of doing things—their everyday thinking process—in order to think, hear, and see things in metrics.

No longer would we have distance in miles, weight in pounds and tons, length in inches, feet, and yards, and liquid quantity in pints, quarts, and gallons.

These traditional units of measure, which are ingrained in our way of life and have served us well since the days of the wild frontier, would be replaced by foreign, funny-sounding, difficult-to-remember metric terms.

We would be made to think of distance in terms of meters and kilometers, weight in grams, length in meters, and liquid quantity in liters.

We would no longer be able to heat our homes, cook our food, and get the weather report according to Fahrenheit temperature. We would be made to use Celsius.

Metric conversion would mean new sizes for screws and bolts, new distances on maps, new weights on scales, new tools to repair cars and other products.

It would mean new sizes for beverages, food, and clothing, new recipes in the kitchen, and the replacement of all school and library books that have weights and measures in customary American terms.

Consider the enormous high cost, confusion, inconvenience, hardship, and wasted effort from some of the immediate ramifications of metric conversion:

All property will have to be re-surveyed at the owner's expense in order to change millions of legally recorded titles, deeds, tax assessments, and other documents, so that they list property sizes in hectares instead of the traditional acre and foot.

Property owners, lending institutions, and insurance companies will have the additional tremendous burden of changing and ensuring the accruacy of millions of mortgage agreements, insurance policies, and other legal papers so that they reflect the new metric dimensions.

Additional hundreds of thousands of road survey and right-of-way documents will have to be changed to record width and length in meters instead of rods.

Workers who provide their own tools will have to replace them.

Companies will be forced to bear the enormous cost of maintaining dual inventories during the transition period, purchasing new hand tools, modifying machinery, changing product sizes, and familiarizing consumers with metric terms.

Companies will also have to retrain workers, at a tremendous cost. This retraining will result in a substantial drop in productivity, and thousands of workers who cannot be retrained under the new metric system will lose their jobs.

Computer systems and data bases will have to be changed.

All U.S. engineering standards will have to be changed, and engineers will be forced to purchase new books reflecting metric standards.

Congress, State Legislatures, and municipal governments will be forced to change all laws, ordinances, codes, and regulations that have references to weights and measures.

This review and needed action to make changes would alone cost billions of taxpayer dollars, and take attention of elected and appointed government officials away from other pressing government matters.

Why should our people be put through such monstrously unnecessary expense and hardship? Because a small group of prometric zealots believe that metric is a "better system" than our American system?

The metric system is decidedly not better than our American system.

Its proponents say that a decimal system is preferable to our system, because you can convert from larger to smaller sizes just by moving a decimal point, and with no fractions.

First of all, our Nation has used decimals for years. Our monetary system is based on decimals. This is part of our customary American system.

But we have fractions, too, which metric does not. This is an advantage to our system, and a very great disadvantage to metric.

We all use fractions more often then we realize. They are a simple, convenient, and easily understood means of describing portions of anything. Fractions are also easily visualized, whether used to divide articles such as an apple, a pie, a bushel of Arizona oranges, or lengths such as inches, feet, or miles.

Which is easier to use and visualize: One-eighth, or its decimal equivalent 0.125; one-fourth, or its decimal equivalent 0.25; one-half, or its decimal equivalent 0.5; five-eighths, or its decimal equivalent 0.625?

In verbal language, our American fractions are indispensable, and metric or decimal units are very impractical. If you're dividing up a pie into eight pieces, it makes sense to call them "eighths," rather than "one hundred twenty-five thousandths." Who calls half a pie "five-tenths"?

There are no halves, quarters, thirds, fifths, and so forth in either the decimal part of the American system or in metric. Both systems are based on the number 10. Decimals are used when a higher degree of accuracy is required. In our normal, everyday activities, fractions are accurate enough for our purposes. In the rare instance when decimals are needed, the decimal equivalent of any fraction can be obtained by dividing the numerator by the denominator.

According to Metric Board Chairman Louis Polk in a recent statement:

"If gasoline prices hit $1 a gallon, the Nation's service stations will have a good chance to change their pumps from gallons to liters. Such a revision would be opportune, because pumps will have to handle prices of $1 or higher."

According to the National Bureau of Standards, one gallon is equal to 3.785306 liters. That is an unwieldly number to have to use. So if we go metric, we probably would be buying gas in even liters—that is, four, eight, twelve liters, and so forth.

To use approximately comparable units today, that would be like buying our gasoline by the quart. Not a very practical idea.

There are various industries that use metric dimensions in some part or parts of their manufacturing process. For example, in the manufacture of optical instruments, all the optics—that is, the glass parts—are given metric dimensions, as are the mating areas of the metal or plastic parts.

The reason for this requires a brief historical explanation. Early in this century, the United States obtained lenses from optical manufacturing companies in Germany, where the metric system was in use. Gradually, we began to produce our own optical elements. The only experienced tradesmen available in this field, however, were immigrants who had formerly worked in optical manufacturing plants in Germany.

Being familiar only with the metric system, they designed optical elements using dimensions in that system. Over the years, large quantities of metric tools and gauges accumulated. Ultimately, it became uneconomical to change from the metric to the U.S. decimal system. Except for that factor, optical elements could be designed and manufactured using the U.S. decimal system.

The only requirement in either system is that the designer use dimensions and tolerances that would provide the accuracy necessary to meet the requirements of the instrument.

Our most common basic units—the inch, foot, yard, rod, mile, ounce, pint, quart, gallon, peck, bushel, acre, and so forth—have been in use for many years.

As we all know, 16 ounces of fluid equal one pint. Two pints equal one quart. Four quarts equal one gallon. Therefore, in measuring fluid up to the gallon unit, unless we wish there is no need to use a number greater than 16. As we go up the ladder in any basic unit a short distance, we step up to another basic unit in the American system.

Under the metric system, one is restricted to decimal units or units between one and 10,000, which is extremely cumbersone even for a person who is expert with numbers.

Using the American system, it is easy to say a quarter pint, or to convert to ounces, to say three-quarters of a bushel, or to convert to pecks, and so forth. None of our basic established values can be converted to simple numbers in the metric system.

For example, one ounce equals 0.0295727 liters or 29.572703 milliliters. One quart of liquid equals 0.9463265 liters or 946.3265 milliliters. Even with the metric values rounded off to the nearest practical equivalent value, we have 29.57 milliliters for one ounce, 0.95 liters for one quart, and 0.91 meters for one yard. Of course, under the metric system, the basic values would be changed to 30 milliliters, one liter, and one meter.

Suppose we want to buy some heavy cream, which, using the present values, would probably be one-half pint? Do we ask for 0.25 liter or 250 milliliters?

If we wanted to talk about a measurement that was approximately a foot long, would we say 0.333 meter or 333.3 millimeters?

It is much more convenient to use the more practical, descriptive fractional vaues. The idea of saying 30 milliliters instead of one ounce beggars description.

The same is true for describing land areas. It is much easier to describe a farm as having 10 or 75 acres, rather than 4.0469464 or 30.352084 hectares.

The same difficulty under metric exists when you try to describe road right-of-way widths in meters instead of rods, and building lot widths in meters instead of feet.

In most cases, the linear measurements—in meters—could be rounded off to the nearest tenth. Rounding off to the nearest whole number would result in an error of from 2.3 inches for a two rod right-of-way width, to 20.5 inches for a 100-foot lot width.

Therefore, right-of-way widths would be 10.1, 15.1, and 20.1 meters, and lot widths would be 15.2, 22.9, and 30.5 meters.

Rounding off metric numbers to the nearest tenth for existing acreages, however, is unacceptable. In fact, we could not round off hectares to the nearest thousandth place. If one rounds off 2.0234732 hectares—which equals five acres, or 217,800 square feet—to the nearest thousandth, or 2.024 hectares—which equals 217,856.8 square feet—the owner of the five acres would gain 56.8 square feet from somewhere.

It is therefore obvious that the number of hectares in describing property size under the metric system must be carried out to the 10,000th place in order to preserve enough accuracy to prevent an injustice.

Describing the size of a piece of property as 2.0235 hectares instead of five acres is impractical.

It should be apparent that metric numbers are not as easy to use in spoken or written language as corresponding values under our American system.

Going metric, no matter how one looks at it, means higher business costs, more time spent, less convenience, more room for error because of the cumbersome number of digits.

In my judgment, no public benefit is being served by the United States Metric Board, which is using millions of taxpayer dollars each year to try and impose this unwieldy metric system upon the American people. To the contrary, I view the Board's continued existence to be positively detrimental to the public and our country's economic greatness.

Every economic and technological success of the United States in our Nation's history has taken place and been possible under our country's predominant customary system of weights and measures. Why tamper with or destroy that system because some zealous idealists mistakenly believe that "metric is a better system."

Metric is not a better system.

Great Britain recently abolished its Metric Board, and Canada's Prime Minister has started an investigation to determine whether Canada's Metric Board is using bureaucratic tactics similar to our own Board's to impose the metric system in that country.

The U.S. Metric Board has requested $3.8 million for FY 1981, and envisions an annual budget of $7 million to $8 million in the future in order to continue its prometric conversion propaganda activities.

I have introduced legislation to abolish the Metric Board. Putting the Board out of business as they did in Great Britain appears to be the only way to stop the further subversion of our American system of weights and measures by the Federal bureaucracy.

It is my hope to gain wider public knowledge of the serious harmful impact of metric conversion and the U.S. Metric Board's role in attempting to force the metric system upon the American people.

I earnestly solicit the support of the National Cowboy Hall of Fame in this effort to safeguard our superior American measurement system from this unwarranted assault by the Federal bureaucracy.

METRIC CONVERSION WILL COST OUR PEOPLE MANY BILLIONS OF DOLLARS

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 21, 1980

Mr. RUDD. Mr. Speaker, the U.S. Metric Board visited Phoenix, Ariz., last week as part of its traveling road show to propagandize U.S. conversion to the metric system.

Even though the Board has a full-time public information director and staff which uses about one-fourth of the Board's entire $2.5 million annual budget, it hired a private marketing and public relations firm to arrange favorable media exposure during the Phoenix visit, including interviews with Board members and appearances on local radio and television talk shows.

The Board's objective in this visit, and visits to other cities around the country, is to promote metric and to get the public, businesses, and State and local governments involved in the Board's planned timetable for abandoning U.S. customary weights and measures in favor of metric.

This is despite instructions from Congress last year that the Board not advocate metric conversion, or favor metric over our customary American system in any of its activities.

Board member Sydney Andrews probably best expressed the prometric bias of the Board's majority when he told news reporters in Phoenix that the United States should switch to metric within 10 years, because he views our American measuring system as "old, cumbersome, antiquated, and complicated."

Quite apart from the factual inaccuracy of Mr. Andrews' statements, this metric advocacy role of the U.S. Metric Board majority in defiance of Congress is very disturbing.

The Board is using taxpayer dollars and the power of the Federal Government to impose metric bureaucratically, when it is not national policy to convert to metric.

Furthermore, in a 2-year study of the impact of metric conversion in the United States, should it take place, the U.S. General Accounting Office found enormous costs and other negative aspects of conversion, with few if any benefits throughout our economy to warrant such a massive disruption of our lives and businesses.

The Metric Board's self-initiated 10-year metric conversion timetable, which has no basis under the law, will cost the American people many billions of dollars in higher consumer prices and taxes—not to speak of enormous confusion and hardship—as books, clothes, grocery products, tools, measuring devices, and anything with reference to weights and measures will have to be replaced or changed.

For example, any worker who provides his own tools will be out of pocket hundreds of thousands of dollars in order to replace them with metric tools.

Businesses forced to replace or modify machinery will suffer enormous costs, which will be passed on to the consumer. A small grocery chain in eastern Canada estimates that it will have to spend $1.2 million just to buy new scales if Canada goes predominantly metric.

The GAO study contains more than 750 pages of information about the high costs and disruptions associated with metric conversion. Just one example is the $1 billion cost to U.S. airlines and private pilots to replace four cockpit instruments, and another $400 to $500 million cost to replace three of these instruments in the U.S. Fleet excluding military aircraft.

The unending list of costs, inconvenience, hardship, and economic disruption associated with metric conversion truly boggles the mind.

I have prepared a brief summary of just some of the more obvious costs and impacts of changing over to the metric system, and how this will affect every citizen.

In consideration of the U.S. Metric Board's one-sided taxpayer funded campaign of propaganda and coercion in behalf of metric conversion, I hope that all my colleagues in the Congress will consider these costs and hardships which will affect all of our people; especially when we take up the Board's $3.85 million budget request for fiscal year 1981:

THE IMPACT AND COST OF METRIC CONVERSION

Required action	Approximate cost	Who pays?	Who's affected?
Resurvey all property	$100 for average residential lot	Landowner	All landowners, municipal recorders.
Resurvey roads and rights-of-way	Indeterminable (millions of dollars)	Local, State, Federal taxpayers	All levels of government.
Replace nanotools	Indeterminable (hundreds of dollars for each worker).	Companies, workers who provide tools, consumers, taxpayers.	All companies, government agencies, and individuals who use handtools.
Modify machinery	Indeterminable (thousands of dollars to many companies).	Companies, consumers, taxpayers.	All companies, government agencies, individuals who use machinery
Change product sizes	Indeterminable (billions of dollars)	Consumers	All manufacturers, retailers, and consumers.
Retrain workers	do	Companies, consumers, taxpayers.	Most workers, companies, government agencies.
Change computer systems and data bases	Indeterminable (millions of dollars)	do	All companies, government agencies, organizations, and individuals who use computers and data bases.
Change all U.S. engineering standards	do	Taxpayers	All engineers, many companies, most government agencies.
Replace all books with references to weights and measures (school books, library books, cookbooks, etc.).	Indeterminable (billions of dollars)	Consumers, taxpayers	All schools, libraries, government agencies, individual bookowners (students, teachers, researchers, etc.).
Change all laws, ordinances, codes and regulations with reference to weights and measures.	do	Taxpayers	All State legislatures, municipal governments, Congress, most government agencies.
Replace all maps	Indeterminable (millions of dollars)	Consumers, taxpayers, companies.	Mollarists, pilots, all transportation and tourist companies, government agencies, libraries, schools, et cetera.
Replace all scales and measuring devices (rulers, tapes, size charts, etc.)	do	do	Most companies, stores, government agencies, organizations, and individuals.
Change all thermometers, thermostats, et cetera.	do	Consumers, professionals, taxpayers.	All homeowners, doctors, hospitals, companies, stores, organizations, and individuals who own cars, homes, et cetera.
Replace all highway signs	Indeterminable (billions of dollars)	Taxpayers	All motorists, Federal, State, municipal governments.
Teach and learn metric	do	Consumers, taxpayers, companies.	Everyone.

[From Congressional Quarterly Almanac, 1975, "Major Congressional Action," pp. 656-659.]

METRIC CONVERSION

Congress Dec. 11 completed action on a bill (HR 8674—PL 94-168) that established a national board to coordinate voluntary conversion to the metric system of measurement in the United States. Similar legislation had been pending in Congress for more than a decade.

The House cleared the measure for the President Dec. 11 when it agreed to accept the Senate version of the bill, passed by voice vote on Dec. 8. The House passed its version on Sept. 5.

As cleared, the bill made coordination of the increasing use of the metric system a national policy. It set up a 17-member U.S. Metric Board to help coordinate voluntary plans to convert to the metric system developed by industry and other groups. The board also would undertake education programs to aid public understanding of metric units of measurement.

The board would not have the power to compel conversion to the metric system. Nor did the bill set any target period for completion of the conversion process. The legislation also did not provide conversion subsidies sought by organized labor and small business groups, but the board could recommend further legislation on this issue. The subsidy question had stalled House action on metric legislation in the 93rd Congress.

Board Composition

The House and Senate versions of the bill were basically identical but the Senate version set more specific criteria for the President's selection of board members. The House version also would have established a 25-member board.

The Senate and final version required the President to select 12 members of a 17-member board from lists submitted by various types of organizations. The board would include two members backed by the AFL-CIO and two members supported by small business organizations. The Chamber of Commerce of the United States, National Association of Manufacturers, engineering, scientific, construction industry, education, standard-setting and state and local government groups each would get one representative on the board. The House version would have required the board to include members representing these types of groups, but did not reserve a specific number of spots for them.

Final Provisions

As signed into law, HR 8674:

- Declared coordination and planning of increased use of the metric system a national policy of the United States.
- Established an independent 17-member U.S. Metric Board to carry out this policy.
- Gave the President authority to appoint the chairman and members of the board subject to Senate confirmation; required the President to select two members from lists submitted by the AFL-CIO and two members from lists submitted by small business organizations; gave the U.S. Chamber of Commerce, National Association of Manufacturers, engineering, scientific, construction industry, education, standard-setting and state and local government groups one representative each on the board.
- Allowed the board to 1) provide procedures to help similar groups coordinate their voluntary plans to convert to the metric system, 2) encourage standardization of metric engineering standards, 3) cooperate with foreign, state and local government programs to coordinate metric use, 4) develop public education programs dealing with the metric system and 5) conduct research and investigate the impact of metric use on consumers, small businesses, union workers and other groups.
- Required the board to report annually to the President and Congress on the status of the metric conversion process and projections of future activity.
- Denied the board any compulsory powers.
- Authorized open-ended sums to finance the board's activity; provided that the board would go out of existence when Congress decided that "its mission has been accomplished."

Background

The United States was the only major industrialized nation that had not begun a coordinated change-over to the metric system. In order to compete in international trade, however, a number of U.S. businesses had started to convert to metric measurement. The federal government and the states also were moving toward the metric system in other ways.

Congress made the metric system legal, but not mandatory, in the United States in 1866. Practically, there was little interest in the subject until the post-World War II technological boom. After almost a decade of discussion, Congress in 1968 passed a bill requiring the Commerce Department to study the feasibility of greater use of the metric system.

The Commerce Department report, issued in 1971, recommended that the United States become "predominantly metric" at the end of 10 years under a nationally coordinated conversion program. The Senate passed a bill designed to implement the recommendation in 1972, but the House did not act in the 92nd Congress. *(1972 Almanac p. 658)*

In October 1973, the House Science Committee reported legislation that would have set up a national board to coordinate and plan a voluntary conversion program. The bill would have set a national policy encouraging industry to make metric units "the predominant, although not exclusive" standard of measurement within 10 years after the board developed an over-all conversion plan. The committee also argued that the costs of conversion should "lie where they fall," opposing subsidies to help small businesses convert or help workers buy new tools or complete any necessary retraining. *(1974 Almanac p. 538)*

Faced with opposition to the bill by small business groups and three AFL-CIO trade unions, the Rules Committee held up action on the measure for four months. Eventually, the committee gave the bill a rule allowing consideration of floor amendments backed by labor and small business groups.

Rather than accept these amendments, Science Committee Chairman Olin E. Teague (D Texas) brought the bill to the floor under the suspension of the rules procedure

barring floor amendments. The House defeated the bill; its supporters ended up with a whopping 109 votes fewer than the two-thirds majority needed to pass legislation under suspension. This defeat ended efforts to enact metric legislation in the 93rd Congress. *(1974 Almanac p. 482)*

House Committee Action

The House Science and Technology Committee reported HR 8674 July 17 (H Rept 94-369).

In hopes of cooling opposition by labor and small business groups that doomed similar legislation in the 93rd Congress, the committee made a number of changes in a metric conversion bill it approved in 1973. In general, the changes left many provisions vaguer, postponed decisions on whether the federal government would pay special subsidies to cover conversion costs for union workers or small businesses and eliminated a 10-year target period for the conversion process. The new bill, as well as the earlier version, would not require any business to convert to the metric system, merely allow the board to help coordinate the voluntary conversion plans of related industries.

The administration favored creation of a board to help coordinate voluntary conversion to the metric system. It generally had opposed federal subsidies to help pay conversion costs, but agreed in 1975 to let the board propose further legislation on this issue if it wanted.

PROVISIONS

The revised version of the bill would establish a 25-member board with three principal duties. It would draw up a broad program to plan and coordinate voluntary conversion by industry, carry out education programs to make the metric system familiar to the public and conduct research to determine the effects of conversion on consumers, small businesses, labor and other groups.

The language of the bill made no mention of conversion subsidies for any group, but labor and small business groups had agreed to settle for provisions giving the board authority to recommend legislation on this subject.

The bill also included no target dates for completion of the conversion process or for development of the board's plans to coordinate voluntary conversion. The 1973 version would have required the board to develop a formal plan for voluntary conversion, which would have been subject to congressional disapproval. Under the new version, the board probably would develop an internal plan, a Science Committee aide explained.

The board would have no power to compel use of the metric system. It would go out of existence when Congress decided it had fulfilled its responsibilities. The bill would authorize open-ended sums for the board's operations, which the committee estimated would cost $3-million a year.

COMMITTEE VIEWS

"The choice before the Congress is not whether we should move to the metric system," the committee maintained. "The choice is between continuing the conversion process in an entirely uncoordinated fashion, as is the case now, or going forward with the conversion process on a coordinated basis."

HR 8674, the committee explained, reflected wide agreement that voluntary conversion should be coordinated. In addition, the committee contended, "many sectors of the national community" were waiting for "a firm statement by the Congress committing the United States to the conversion" before they adopted the metric system.

Subsidies

The committee did not specifically address the question of whether the federal government should subsidize workers who had to buy metric tools, but touched on the issue in general terms. "The committee feels that minimum costs will be incurred if conversion is accomplished, in general, without federal subsidies," the report said. "A program of automatic general reimbursement by the federal government would be very difficult to administer."

However, the committee pointed out that the board could recommend legislation if it identified "unresolved problem areas."

The report dealt more specifically with the question of providing assistance to small businesses. The committee said it expected the Small Business Administration to provide assistance to small businesses needing help to convert and to help protect federal contracts held by small firms during the conversion process.

Timetable

While it had considered setting a 10-year target date for completion of conversion, the committee said it recognized the need for flexibility. "The committee envisions a conversion period sufficiently long so that no industry or sector of society will be unduly harmed or disadvantaged," the report said. "The committee also desires a conversion period sufficiently short so that the social and economic costs of conversion will be reduced."

Other Issues

The committee made it clear that it expected the board membership to represent various segments of the society, including small business, agriculture, business, labor, education, the consumer, state and local governments, and science and engineering. The committee also stressed that the board would be independent of any federal department.

Industry groups working together to coordinate conversion plans should not face prosecution under antitrust laws, the committee explained. To make it clear that groups were working together under the auspices of the board, the committee suggested, a board representative should attend industry meetings on conversion.

House Floor Action

The House Sept. 5 passed HR 8674 by a 300-63 vote. *(Vote 376, p. 116-H)*

Approval of the bill was guaranteed after sponsors worked out ways to meet organized labor's objections to some of the language in the Science and Technology Committee's report on the legislation, filed July 17. Labor spokesmen, who found the bill itself generally acceptable, had complained that the report language declared that the United States would convert to the metric system instead of emphasizing coordination of voluntary conversion.

Labor representatives met with James W. Symington (D Mo.), a chief sponsor of the bill, several times after the report was filed to make the case that the report language did not conform with the bill's statement of U.S. policy. Symington clarified the report language with statements on the House floor, and sponsors agreed to amend the title

of the bill to make it clear that the measure did not make metric conversion a national policy goal.

Because of the agreements reached with labor, floor debate on the bill was routine. No one spoke against the measure on the floor, although some conservatives had argued in the past that metric conversion was unnecessary, too costly and even un-American.

Science and Technology Committee sponsors stressed that conversion to the metric system already was underway in the United States and that coordination of voluntary conversion would save time, money and confusion. Science Committee Chairman Olin E. Teague (D Texas) also pointed out that the United States was the only major industrialized nation that had not set up a governmental body to coordinate changeover to the metric system.

"I am convinced that this bill is good for the country," Teague concluded. "Perhaps I will never learn the total metric system myself, but there is no doubt that today's school children will learn it sooner or later, and before long the housewife who goes shopping will understand it."

Labor Clarifications

In response to labor's objections, committee sponsors offered an amendment to the title of the bill that specified that U.S. policy would be to coordinate the increasing voluntary use of the metric system instead of to convert to metric measurement. It was adopted by voice vote.

In a colloquy with Spark M. Matsunaga (D Hawaii), who promoted labor's position on the bill in the 93rd Congress, Symington also made it clear that the question of subsidizing purchase of metric tools for workers would be reviewed by the national board.

Conversion Target Period

While he did not propose any amendments, Barry M. Goldwater Jr. (R Calif.) suggested that lack of a specific target date for completion of the conversion process would slow the switch to the metric system.

Symington maintained that there were several good reasons not to set a target date. Industries moving rapidly to the metric system might slow down their efforts if the bill set a 10-year target, Symington argued, while other industries might have trouble meeting a 10-year target date. He also contended that creation of the national board would touch off "a new wave of interest" in the metric system.

Senate Action

The Senate Commerce Committee reported its version of the bill (S 100—S Rept 94-500) on Nov. 26 after agreeing to water down many of the original provisions of S 100, sponsored by Claiborne Pell (D R.I.). As introduced, S 100 would have mandated U.S. conversion to the metric system within 10 years.

The committee made it clear that the metric board's role would be to help coordinate voluntary plans to convert. "The board is not expected to advocate metrification," the committee said, "since, in some instances, members of an industry or economic sector may decide that the costs outweigh the benefits."

The Senate passed HR 8674 by voice vote Dec. 8.

Before passing HR 8674, the Senate amended it to include the provisions of S 100 as reported by the Senate committee. The Senate also adopted, by voice vote, an amendment by John V. Tunney (D Calif.) that would give small business organizations two representatives instead of one on the metric board.

Floor debate on the bill was routine. Daniel K. Inouye (D Hawaii), floor manager of the bill, pointed out that use of the metric system would increase regardless of congressional action, but argued that the metric board would make the conversion process more orderly.

"The question facing us...is not whether we convert, but the manner in which we convert," he noted. "If we continue in the manner which we have been following thus far, we shall end up with a patchwork of conversion programs and dual measurements that will result in costly and unnecessary duplication."

1. Hearing before the Committee on Commerce, U.S. Senate, 92nd Congress, Second Session, February 2 and March 1, 1972 (325 pages).

   S. 2483 (Mr. Pell, R.I.) to provide a national program in order to make the International Metric System the official and standard System of measurement in the U.S. and to provide for converting to the general use of such system within ten years after the date of enactment of this act.

   S.J. Resolution 219 (Mr. Cotton) to establish a National policy relating to conversion to the metric system in the U.S.

   HR 12555 (Mr. McClory) to establish a program for the U.S. to convert to the metric system.

2. Hearings before the Subcommittee on Science Research and Development of the Committee on Science and Astronautics, House of Representatives, 93rd Congress, First Session. March 19, 20, 21, 22; May 9, 10, 1973 (665 pages).

   HR 170 (Mr. Davis) to establish a National policy relating to conversion to the metric system in the U.S.

   HR 191 (Mr. Hechlor, W. Va.) to provide a National program in order to make the International metric system the predominant but not exclusive system of measurement in the U.S. and to provide for converting to the general use of such system within ten years.

   HR 724 (Mr. McClory and others) to establish a program for the U.S. to convert to the metric system.

   HR 4779 (Mr. Fraser) to provide for conversion of the U.S. to the metric system.

   HR 5126 (Mr. Fuqua) to provide a National program in order to make the International metric system the predominant but not exclusive system of measurement in the U.S. and to provide for converting to the general use of such system within ten years.

   HR 5749 *(Mr. Teague, Texas) to establish a National policy relating to conversion to the metric system in the U.S.

   *Reintroduced as HR 11035 in October 1973.

3. Hearing before the Committee on Commerce U.S. Senate, 93rd Congress, Frist Session, November 2, 1973 (91 pages).

   S. 100 (Mr. Pell) to provide a national program in order to make the International Metric System the predominant but not exclusive system of measurement in the U.S. and to provide for converting to the general use of such system within ten years.

4. Hearing before the Subcommittee on Science Research and Technology of the Committee on Science and Technology of the U.S. House of Representatives, 94th Congress, First Session, April 29, and 30; May 1, 6, 7, & 8, 1975 (927 pages).

HR 254 (Mr. Teague) to declare a National policy of converting to the metric system in the U.S. and to establish a National Metric Conversion Board to coordinate the voluntary conversion to the metric system over a period of ten years.

HR 492 (Mr. Hechler, W. Va.) to provide a National program in order to make the International metric system the predominant but not exclusive system of measurement in the U.S. and to provide for converting to the general use of such system within ten years.

HR 627 (Mr. McClory) to establish a program for the U.S. to convert to the International Metric System.

HR 6154 (Mr. Teague) to establish a national policy relating to the conversion of the metric system in the U.S.

HR 6177 *(Mr. Symington) to establish a program for planning and coordinating the conversion of the U.S. to the metric system of measurement.

*Introduced at the request of the AFL-CIO

HR 6264 (Mr. Fraser) to provide for the conversion of the U.S. to the metric system.

5. Hearing before the Committee on Commerce U.S. Senate, 94th Congress, First Session, October 8 and 10, 1975 (221 pages).

S. 100 (Mr. Pell) to provide a National program in order to make the International Metric System the Predominant but not exclusive system of measurement in the U.S. and to provide for converting to the general use of such system within ten years.

S. 1882 (Mr. Inouye) to establish a national policy relating to conversion to the metric system in the U.S.

HR 8674 to declare a National policy of coordinating the increasing use of the metric system in the U.S., and to establish a U.S. Metric Board to coordinate the voluntary conversion to the metric system.

TEXT OF GENERAL ACCOUNTING OFFICE RECOMMENDATIONS TO THE U.S. METRIC BOARD, OCTOBER, 1978, AND SUMMARY OF METRIC BOARD ACTIONS SINCE INSTRUCTIONS FROM CONGRESS THAT THEY BE IMPLEMENTED.

1. "INFORM THE AMERICAN PEOPLE THAT CONVERSION IS STRICTLY VOLUNTARY AND THAT OUR NATIONAL POLICY DOES NOT FAVOR THE METRIC SYSTEM OVER THE CUSTOMARY SYSTEM, OR VICE VERSA."

The Metric Board has not so informed State Legislatures and weights and measures officials, constituent groups represented by Board members, media representatives during interviews, and the general public.

This directive was not implemented in connection with the Metric Board's actions and public pronouncements in supporting metric conversion of gas pumps to sale by the liter instead of the gallon, or in any other area where the use of metric measurements as a replacement for customary American measurements was being considered.

2. "ENSURE THAT ITS POLICIES AND ACTIONS DO NOT ADVOCATE OR DISCOURAGE THE USE OF ONE SYSTEM OVER THE OTHER."

The Metric Board and its individual members, with only few exceptions, consistently advocate the use of metric over our customary American system.

The metric conversion of gas pumps is a prime example of a major Board effort where advocacy and encouragement of one system over the other has occurred.

Creation of an Interagency Committee on Metric Policy (ICMP) within the Federal Government, and publication of a pro-metric conversion policy in the Federal Register on January 8, 1980, are further failures of the Board to abide by this directive of Congress.

3. "ENSURE THAT IF A VOLUNTARY METRICATION PROPOSAL IS PRESENTED TO THE BOARD, ALL AFFECTED PARTIES ARE ADEQUATELY REPRESENTED IN THE VOLUNTARY DECISIONMAKING PROCESS."

This directive was not properly implemented by the Metric Board during its two days of hearings to consider metric conversion of gas pumps.

A number of major oil refiners and other selected organizations were invited to participate, but the hearings fell notably short of including all "those who are affected," as described by the Board itself in requirements later promulgated as "Acceptance Criteria for Private Sector Conversion Plans":

"In metrication planning particularly, 'those who are affected' covers a very wide range of individuals and organizations. It stretches horizontally to other activities which are closely or only

partially related to the activity of the sector, i.e. through packaging, similar transportation or distribution patterns, common sources of supply. It also stretches vertically through the economic chain, from suppliers of materials and components to customers and ultimate consumers. And most importantly it presumes consideration and involvement of activities most directly related, including various sizes and types of businesses and organizations whose activities are similar or partially dependent upon any decision by the sector as a whole.

"Any sector plan submitted to the Board must be supported by those available records, data and documentation which provide convincing proof that a broad general agreement has been achieved, or will be achieved before specific facets of the plan are implemented."

The Metric Board hearings on gas pump conversion did not include a broad array of affected gas station owners, motorists from across the country, elected officials and representatives in States and communities nationwide.

In addition, no specific conversion plan for gas pumps was prepared, and no effort was made to involve wide participation throughout the entire planning process in order to recognize and resolve differences where possible, before the Board promulgated its findings and recommendations supporting gas pump conversion to metric.

Furthermore, the Metric Board has made no effort to hold hearings or obtain widespread public agreement before implementation of other metrication proposals or actions, particularly those involving the Federal Government, in the areas of "p-metric" vehicle tires, metric conversion of highway signs, and so forth.

4. "HOLD PUBLIC HEARINGS ON THOSE CONVERSION PLANS THAT AFFECT THE GENERAL PUBLIC TO OBTAIN THEIR COMMENTS WHICH SHOULD BE CONSIDERED IN FINALIZING SUCH PLANS."

Commentary following Recommendation #3 also applies to this recommendation of the General Accounting Office, which Congress instructed the Metric Board to implement.

The Metric Board has not held hearings to obtain public comments and involvement on any ongoing metric conversion plans other than gas pumps, including (1) chemical and allied products; (2) highway vehicles; (3) construction and agricultural equipment; (4) instruments; (5) medical devices; (6) surveying and mapping; (7) consumer products (weights and measures and packaging); (8) education and industrial training (employee training, general/academic education, educational materials, vocational education, home economics education, engineering education); and (9) beverages.

5. "MAKE PROVISIONS TO HANDLE QUESTIONS AND COMPLAINTS BY THE GENERAL PUBLIC IN AN EXPEDITIOUS MANNER."

Questions from the public are routinely referred by the Metric Board staff to metric advocacy organizations, such as the American National Metric Council and the American National Standards Institute.

The Board has refused to accommodate a public request to publish an official guideline on usage of the International System of Units (SI), the specific metric system designated under Public Law 94-168.

6. "ADOPT A NATIONAL METRIC SYMBOL (LOGO) TO BE USED ONLY ON MATERIALS THAT THE BOARD HAS REVIEWED FOR ACCURACY AND COMPLETENESS AND MAKE THE PUBLIC AWARE OF THIS DESIGNATION."

The Metric Board has adopted a national metric logo, which appears on its stationary and publications. But the logo is used indiscriminately on all publications of the Board, most of which do not accurately or completely state the national policy concerning metric conversion and continued use of our dual system of measurements.

Furthermore, much of the material using the official Metric Board logo does not objectively state all facts on both sides of the issue, and does not refrain from favoring the metric system over the customary American system or vice versa.

The Metric Board does not review and approve all publications on which the metric logo appears for accuracy and completeness.

7. "IN PLANNING AND COORDINATING CONVERSION ACTIVITIES OD U.S. INDUSTRIES INVOLVING THE ADOPTION OF INTERNATIONAL STANDARDS, GIVE CONSIDERATION TO THOSE CONVERSION ACTIVITIES THAT HAVE TAKEN PLACE, SUCH AS THAT OF THE U.S. FASTENER INDUSTRY IN ITS ATTEMPT TO ACHIEVE (1) ADOPTION OF ITS PROPOSALS FOR INTERNATIONAL STANDARDS AND (2) THE BENEFITS OF STANDARDIZATION AND RATIONALIZATION."

There is no evidence that this recommendation to consider the conversion activities of economic sectors such as the U.S. fastener industry was implemented in preparation of the Metric Board's "Acceptance Criteria for Private Sector Conversion Plans," approved by the Board on October 19, 1979.

8. "USE THE EXPERIENCE GAINED IN THE CONVERSION OF THE WINE AND DISTILLED SPIRITS INDUSTRIES IN REVIEWING PLANS FOR OTHER SECTORS, ESPECIALLY THOSE INVOLVING CONSUMER PRODUCTS."

The Metric Board has not formally reviewed any metric conversion plans, even in the area of gas pump conversion where it has played an active role in supporting immediate nationwide conversion activities. This recommendation has therefore not been implemented at this time, as directed by Congress.

9. "DEVELOP AVENUES THROUGH WHICH THE STATES MAY DEFINE THEIR ROLES AND COORDINATE APPROPRIATE VOLUNTARY CONVERSION ACTIVITIES AMONG OTHER STATES UNDER THE CURRENT NATIONAL POLICY."

The Metric Board has not implemented this recommendation, as instructed in conjunction with FY 1980 appropriations by Congress. Instead, the Board has unilaterally decided to identify all "legal barriers and impediments" to metrication in State, local, and Federal laws, codes, regulations, and other government procedures, and to work through pro-metric organizations such as the National Conference on Weights and Measures to eliminate such "legal barriers and impediments" at some future time.

This effort is a further attempt to advance metric conversion from the Federal Government level, down through the States and other governmental entities, by strategizing regulatory and legislative changes that should be accomplished by pro-metric conversion advocates.

10. "ENSURE THAT STATE EDUCATION AGENCIES AND THE U.S. OFFICE OF EDUCATION COORDINATE THE TIMING OF METRIC CONVERSION IN EDUCATION SO THAT METRIC INSTRUCTION IN SCHOOLS WILL BE IN PHASE WITH THE NEEDS OF THE NATION IN ORDER THAT TIME, EFFORT, AND MONEY WILL NOT BE EXPENDED TO DEVELOP AND TEACH A PREDOMINANTLY METRIC PROGRAM TO STUDENTS FOR A STILL NON-METRIC SOCIETY. EDUCATORS MUST BE REMINDED THAT U.S. POLICY AT THIS TIME IS VOLUNTARY, WHICH INCLUDES THE OPTION NOT TO CONVERT."

The U.S. Metric Board has not implemented this recommendation, as instructed by the Congress.

11. "CONSIDER THE INFORMATION AND SPECIFIC RECOMMENDATIONS CONTAINED IN THE CHAPTERS OF OUR REPORT IN REVIEWING ANY CONVERSION PLANS SUBMITTED TO THE BOARD."

No evidence has been found to show that the Metric Board has considered the information and specific recommendations of the General Accounting Office in reviewing any conversion plans submitted to the Board.

The information contained in the GAO's 23-page chapter on metrication in the petroleum industry ("The Petroleum Industry Foresees Few Benefits") was not used in preparation of the Metric Board's Staff Report entitled "The Conversion of Retail Fuel Pump Computers to Sale by the Liter," or in formulation of the Board's June 21, 1979 resolution on metrication of gas pumps. No members of the GAO team who conducted the two-year metric study resulting in the Comptroller General's October, 1978 report were invited to participate or submit data during the Metric Board's hearings on gas pump conversion to metric.

The Metric Board's attitude regarding the General Accounting Office report was made known at a public forum held by the Board in Washington, D.C., on April 4, 1979, when Board members were asked to comment on the GAO study.

Board member Bruce Johnson, who represents U.S. science on the Board, said of the GAO report:

"I think we should let dead dogs lie."

Board member Roger Travis, who represents U.S. small business which is overwhelmingly opposed to metric conversion, said of the GAO report:

"As far as we're concerned, it'll get dust on it like anything else."

12. "GASOLINE PUMP COMPUTERS MAY HAVE TO BE CHANGED BECAUSE OF THE INCREASING UNIT PRICE PER GALLON. THEREFORE, WE RECOMMEND THAT THE U.S. METRIC BOARD ADVISE THE PETROLEUM INDUSTRY OF THE CONVERSION PLANS, IF ANY, OF OTHER RELATED CONSUMER PRODUCTS. THE PETROLEUM INDUSTRY THEN CAN PLAN FOR THE VOLUME UNIT PRICE CHANGE TO THE QUART OR LITER DEPENDING ON WHAT MEASURING SYSTEM OTHER CONSUMER PRODUCTS WILL BE SOLD BY."

No evidence has been found to show that the U.S. Metric Board has implemented this recommendation, as directed by Congress.

U.S. METRIC BOARD

NEWS RELEASE

FOR IMMEDIATE RELEASE

Contact: John Donnelly
U.S. Metric Board
(703)235-2820

U.S. METRIC BOARD VOTES TO SUPPORT GAS PUMP CONVERSION

WASHINGTON, D.C., June 25 -- The United States Metric Board approved, Thursday, June 21, a resolution to support metric conversion of the nation's gasoline pumps to sell gas by the liter, instead of the gallon.

The resolution states that "this is an opportune time for the development of a planned and coordinated voluntary program of dispensing gasoline by the liter and the Board urges all affected parties to participate in the planning process."

The Board, which conducted public hearings in May on the pump conversion issue, emphasized the need for adequate public information in connection with liter dispensing.

"Without taking this action, metric usage is likely to proceed in a haphazard fashion leading to public confusion, disparate end results and a negation of the positive cost advantages that a nationally planned and coordinated program offers," the resolution states.

Most of the nation's 1.5 million gasoline pumps cannot compute a price higher than 99.9 cents per gallon and will have to be changed when prices pass that point -- as now seems assured.

According to a Metric Board staff report, conversion of pumps to compute gas by the liter would save about $100 million nationwide over changing the pumps to compute prices up to $1.99 per gallon.

In California, the state weights and measures division is already coordinating a move to liter sales of gas. A statewide survey of major gasoline companies and independent distributors showed the "overwhelming majority feel that metric conversion of California's gas pumps would be easier and substantially less expensive than other alternatives."

Board Executive Director, Dr. Malcolm E. O'Hagan, said that the gas pump conversion "is an example of how increased metric usage in this country can be accomplished to provide economic advantages with a minimum of disruption for the consumer."

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COMMITTEE ON APPROPRIATIONS

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COMMITTEE ON COMMITTEES

March 20
1 9 8 0

Dr. Louis F. Polk, Chairman
U.S. Metric Board
1815 N. Lynn Street
Arlington, Virginia 22209

Dear Chairman Polk,

Your recent letter denying my statement that the U.S. Metric Board has ignored specific directions from Congress with regard to its activities under Public Law 94-168 contained several unfactual statements, which must be clarified for the record.

As you know, Public Law 94-168, the Board's organic act, does not establish a national policy of changeover to the metric system, but established a mechanism within the Federal Government to assist the public in the voluntary use of metric measurement only when the initiative comes from the private sector. The intent of the law is that the Federal Government, including the Metric Board, is to implement no policy or action that favors the metric system over the customary American system, or vice versa.

Your statement that "The Board at all times has operated strictly within the provisions of the Metric Conversion Act, and in accordance with the specific directions received from our Congressional Committees" is not correct. The Metric Board has violated the spirit and letter of Public Law 94-168 and subsequent directives from Congress in at least 10 specific ways, as follows:

1. A majority of the Board, collectively and individually, advocate conversion to the metric system, project it as being "a better system" than the American customary measurement system, and point to the "inevitability" of metric conversion in their meetings and activities as a way to convince business and citizens to plan conversion as quickly as possible in order to minimize conversion costs.

2. The Metric Board is operating on a 10-year timetable for metric conversion in the U.S., which was specifically rejected by Congress before passage of Public Law 94-168.

3. The Board does not present a balanced picture of the disadvantages and high costs of metric conversion along with its pro-metric views.

4. The Board has made no efforts to determine or eliminate the inconsistencies and inaccuracies in metric usage in the U.S., resulting from government policy simultaneously supporting two different metric systems -- one metric system under an 1866 law and another metric system with different units and standards under a 1975 law.

5. The Board members and staff are not properly versed in the International System of Units (SI), the metric system specified in P.L. 94-168 as the system to be used in the U.S., in order to "assist the public through information and education programs to become familiar with the meaning and applicability of metric measures in daily life," as required by the law.

6. The Metric Board has refused in response to public request to publish a guideline for metric (SI) usage.

7. When contacted by citizens and businesses for information and assistance concerning metric usage, the Board staff advocates affiliation and purchase of materials from the American National Metric Council and the American National Standards Institute, two private pro-metric conversion advocacy organizations.

8. The Board has failed to coordinate metric conversion activities involving private industry and the Federal Government (e.g., "p-metric" vehicle tire and metric highway sign conversions) in order to carry out mandates of Congress and recommendations of the General Accounting Office which the Federal Government was instructed to implement.

9. The Board did not conduct a proper or thorough cost-benefit analysis before it publicly supported and advocated conversion of gasoline sales to sale by the liter instead of the gallon (also a violation of the law).

10. The Board has not ensured that other Federal agencies refrain from imposing metric upon the public by favoring metric over our American customary system, such as through issuance of administrative orders or regulations mandating metric usage.

In your letter, you denied that the Metric Board has conducted an effort to persuade the Nation's retail gasoline stations to sell gasoline by the liter instead of by customary measuring unit. You stated, "The resolution adopted by the United States Metric Board in conjunction with our hearings on gaspump dispensing and contained in the report entitled, 'The Conversion of Retail Fuel Pump Computers to Sale by the Liter' neither endorses the sale of gasoline by the liter nor attempts to persuade gasoline retailers to sell by the liter."

As you can see from the enclosed news release widely distributed as an official pronouncement by the Metric Board, the Board did indeed represent its action as a clear and unequivocal policy stand advocating metric changeover of gasoline sales.

The headline of the Board's release stated: "U.S. Metric Board Votes to Support Gas Pump Conversion." The opening paragraph of the official release stated, "The United States Metric Board approved Thursday, June 21, a resolution to support metric conversion of the nation's gasoline pumps to sell gas by the liter, instead of the gallon." The remainder of this public policy statement released by the Board to the national media reinforces that advocacy position.

According to information provided to my office by the Board's staff, a national news release of this nature is sent to 750 to 800 recipients, including the national wire services, news bureaus and writers representing every newspaper, news magazine, radio, and TV station in the country. The release issued by the Board appeared in newspapers nationwide and was widely reported by broadcast media. This advocacy position has since been reinforced by the Board and its staff in numerous ways, including a picture and pro-liter conversion of gaspump statement in the Board's 1979 Annual Report.

The Board's news release, resolution, and Annual Report statement regarding gaspump conversion to sale by the liter ignore two important cost factors presented during the May hearings:

1. The $155 million cost estimated by the Metric Board to convert gas pumps to liter sales only comprises the discreet labor and material costs incurred in converting the pumps in gasoline stations. However, changing equipment to accommodate liter pricing cannot occur in isolation, but requires many other actions and changes, each with their own additional high costs not considered or calculated by the Board as intended under P.L. 94-168.

2. The estimated $100 million cost savings that the Board states will accrue from metric gas pump conversions would be surpassed by consumer education costs in order to provide adequate information at the pump allowing unit price comparison as well as other available preliminary information to ensure consumer understanding, protection, and acceptance of any pump conversion to liter dispensing. The Board's report appears to have purposely hidden or obfuscated the fact that these consumer education costs would be higher than any savings from metric gas pump conversion.

In your letter, you dismissed my statement that the liter is not a unit under the International System of Units (SI), established as the official metric system under the Board's organic act, with the statement that "the liter is accepted by the Secretary of Commerce, and internationally, as a unit for use with the international system of units (SI)."

This does not change the fact that the liter has no legal standing as a unit of measure in the United States.

Under the SI metric system, the official basic unit of volume (capacity) is the cubic meter (m^3). Its subunit closest to our quart is the cubic decimeter (dm^3) -- 0.001 cubic meter, or 1 000 cubic centimeter (cm^3) -- not the liter, which is 1 000.028 cm^3.

When it was discovered in 1964 that the liter had an overage of 28/1,000ths of a cubic centimeter, the liter was discarded as an inaccurate unit of metric measurement under SI by the General Conference on Weights and Measures headquartered in France. It continues in use under other metric systems, because of its familiarity, but the liter is not a legal unit under SI anywhere.

Under the U.S. Constitution (Article I, Section 8), only Congress has the power to "fix the standard of weights and measures," thereby legally establishing units of measure, whether customary or metric units. Congress has not established a standard for the liter. Therefore, the liter is not a legal unit of measure for use by anyone in the United States, regardless of its acceptance by an official or agency of the Federal Government or a foreign entity such as the General Conference on Weights and Measures.

Your letter stated that the Metric Board has followed the Appropriations Committee's instructions to implement the recommendations of the Comptroller General, but this is not correct. I am enclosing the text of the 12 GAO recommendations directed specifically to the Board, and a summary of the Board's actions to date which clearly indicates a failure to follow the Committee's instructions.

In response to my statement that the Board has also failed to coordinate implementation of the GAO recommendations throughout the Federal Government, you indicated that the GAO report was mailed to each of the 42 Agency coordinators at the time it was issued and discussed at the January 19, 1979 meeting of the Interagency Committee on Metric Policy, which you described as "an interagency committee...established at the request of OMB to fulfill just such a function."

To my knowledge, there is no evidence that the Board communicated the specific GAO recommendations and instructions of Congress to each Federal agency. The GAO, not the Metric Board, did mail a copy of its report to each agency at the time of publication in October, 1978. But a spot check of metric coordinators by my office indicates that none received follow-up communication from the Metric Board to coordinate their implementation of the GAO recommendations, and that none has specifically implemented them.

Although I am not aware of the nature of the discussion of the GAO recommendations at the ICMP meeting, you did not indicate that the discussion was favorable to the GAO findings and recommendations, or that it indicated the intent of the various agencies to implement the actions proposed. This ICMP meeting took place six months prior to Congressional instructions that all Federal agencies implement the GAO recommendations.

It is not true that the Interagency Committee on Metric Policy was "established at the request of OMB," as you stated. The history of the ICMP, presented at an official meeting of the Metric Board on August 18, 1978, shows that OMB halted creation of the ICMP when it was first initiated by the Secretary of Commerce in August, 1977, prior to appointment of the full Metric Board. OMB requested a delay in the actual organization and functioning of the ICMP until it could be determined by the Board whether such an interagency committee was needed, or if the proposed metric coordination among Federal agencies could

be accomplished through ad hoc meetings of designated representatives from the various Federal agencies.

Despite OMB's obvious doubt concerning justification for the ICMP, the Metric Board voted by resolution on August 18, 1978 to establish the ICMP. The Board also agreed to transfer the Commerce Department's Metrication Subcommittee of the Interagency Committee on Standards Policy to the ICMP as its Metrication Operating Committee.

The ICMP operates independently of the Metric Board. Despite the fact that Metric Board funds pay for the ICMP operations, including publication of Federal Register notices, the Board's official minutes of its July 19, 1979 meeting note that "the ICMP has no authority as a Federal entity." Also, according to the Board's official minutes of its February 16, 1979 meeting, "OMB has not been a part of the ICMP (at their own request)" along with other Federal agencies.

This brings into question the authority of the ICMP, rather than the Metric Board, to publish a "Metric Conversion Policy and Guidelines for Federal Agencies" in the Federal Register of January 8, 1980. You stated in your letter that there is no language in this policy that instructs Federal agencies to take a lead in metric conversion and use, contrary to the intent of Public Law 94-168. This is not borne out by the following representative quotations from the ICMP policy:

"...Federal agencies shall encourage and support an environment which facilitates metrication. Each Federal agency shall develop plans, allocate sufficient resources, and take action to...[a]ctively undertake coordination and planning for metric conversion.... Identify the areas where metrication is dependent upon the agency's initiative and take appropriate action.... Each agency shall ... [i]dentify on a continuing basis measurement-sensitive policies and procedures for which it is responsible, and prepare new or revised regulations, standards, specifications, procurement policies, and, if appropriate, legislative proposals, to remove barriers to metric conversion.... Each agency shall develop a capability to identify and to implement metric conversion initiatives including the associated time frames for their initiation and completion. This shall include the capability for coordination with other

agencies.... Each agency shall immediately establish practices that raise its employees' awareness and understanding of the change to the metric system.... Each agency shall adopt metric units and practices unless there are substantial reasons against such actions.... Each agency shall recognize the Interagency Committee on Metric Policy (ICMP) as the policy coordinating group for the Federal Government, and that the ICMP representatives are expected to be able to speak for their respective agencies on metric policy matters."

Establishment of the ICMP, and publication of this metric policy statement replete with mandatory overtones, appear to be an attempt to circumvent the voluntary nature of metric usage under Public Law 94-168, by creating a mechanism outside the framework of the law to mandate Federal Government-wide metric conversion, and in turn to impose metric usage upon the private sector through government initiatives clearly not authorized by Congress.

As you know, I am not alone in my strong criticism of this defiance of the intent of Congress under Public Law 94-168. The Board's two members representing U.S. labor have taken strong exception to the Board majority's metric advocacy role in a memorandum and summary of the law's legislative history, which were sent to all Board members and discussed at the Board's August, 1979 meeting.

Specifically, the memorandum stated that the Board majority has misinterpreted both the law and the intent of Congress in justifying the Board's operations and budget requests to Congress. They stated that the U.S. Senate had underscored the real intent of the Board's organic act during confirmation hearings for the 17 members of the Metric Board, by noting that (1) the Board will have a coordinating rather than a planning function; (2) the Board is to be neutral; and (3) the Act clearly foresees the existence of a dual system in the United States.

I regret the actions of the Board and its staff, and those of other Federal agencies with Board encouragement, to defy and subvert this intent of Congress to continue our Nation's historic use of both customary American measurements and metric measurements, on a voluntary basis, through unwarranted attempts to impose changeover to a solely metric system.

Sincerely,

Eldon Rudd

Eldon Rudd
Member of Congress

ER:aa
Enclosures

Dr. Louis F. Polk, Chairman
U.S. Metric Board

March 20, 1980

cc Members, U.S. Metric Board
Chairman, Subcommittee on State, Justice, and Commerce,
The Judiciary, and Related Agencies Appropriations
Hon. George O'Brien, Ranking Minority Member
Hon. Don Fuqua, Chairman
House Committee on Science and Technology
Hon. John Wydler, Ranking Minority Member
Hon. George Brown, Chairman
House Subcommittee on Science, Research
and Technology
Hon. Harold C. Hollenbeck, Ranking Minority Member
Hon. John Rhodes, Minority Leader

UNITED STATES METRIC BOARD

Suite 600
1815 North Lynn Street
Arlington, Virginia 22209

February 21, 1980

The Honorable Eldon Rudd
U. S. House of Representatives
Washington, D. C. 20515

Dear Mr. Rudd:

This is to acknowledge your recent letter declining to accept our invitation to express your views before the United States Metric Board's Public Forum that was held in Phoenix, Arizona on February 14-15, 1980.

First let me report that our meeting in Phoenix was very worthwhile. We heard from a number of groups and citizens with varying positions on the issue of metrication. We were cordially received in your great state although we wondered if the rain gods were trying to send us a message.

In your letter you contend that the United States Metric Board is ignoring directions from Congress with respect to its activities under the law. This is erroneous and misleading. The Board at all times has operated strictly within the provisions of the Metric Conversion Act, and in accordance with the specific directions received from our Congressional Committees.

In your letter you contend that the United States Metric Board continues to be an advocate of metric conversion contrary to the expressed will of Congress; "the most notable recent action in this regard is the Board's continuing campaign to persuade the nation's retail gasoline stations to sell gasoline by the liter instead of the customary measuring units." A review of the Board's public announcements and actions will clearly indicate that this is not true.

The resolution adopted by the United States Metric Board in conjunction with our hearings on gaspump dispensing and contained in the report entitled, "The Conversion of Retail Fuel Pump Computers to Sale by the Liter" neither endorses the sale of gasoline by the liter nor attempts to persuade gasoline retailers to sell by the liter. A copy of the resolution is enclosed for your information.

As for your statement that the liter is an inaccurate unit of metric measurement, it should be pointed out that the liter is accepted by the Secretary of Commerce, and internationally, as a unit for use with the international system of units (SI).

62-321 O - 80 - 7

In your letter you state that the "Board has failed to inform the American public of the findings and recommendations of the General Accounting Office, which Congress instructed the Board to implement through Board publications and meetings."

On page 56 of the House Report 96-247, the House Appropriations Subcommittee on State, Justice, the Judiciary and Related Agencies instructed the United States Metric Board to implement the recommendations of the Comptroller General as it related to the October 19, 1978 GAO report on this subject. Nowhere in the Committee's instructions, nowhere in the GAO report, and nowhere in the Congressional floor debate do we find the requirement that the Metric Board "inform the American public of the findings and recommendations of the GAO" per se. We have complied with Public Law 94-168 and followed the Appropriations Subcommittee's instructions contained in the above-mentioned House report that "we implement the recommendations of the Comptroller General and review policies and programs to insure that it provides complete information about the metric system and about all aspects of the conversion process."

You state that "the Board has also failed to coordinate implementation of these October 1978 recommendations throughout the Federal government, as directed last year by Congress through its appropriation action." In addition to complying with those recommendations specifically directed to the United States Metric Board, copies of the GAO report were mailed to each of the 42 Agency coordinators at the time the report was issued to insure that the wishes of Congress were known to the entire Federal government. Moreover, the GAO report was also discussed at length at the January 19, 1979 meeting of the Interagency Committee on Metric Policy; an interagency committee which I might add was established at the request of OMB to fulfill just such a function.

As for ICMP's recently published "Metric Conversion Policy for Federal Agencies," you should know that this is not a metric conversion plan. Nor is there any language that "instructs Federal agencies to take a lead in metric conversion and use" as stated in your letter. ICMP's policy and guidelines is merely a framework for Federal agencies to use as a guide should they determine it in their best interest to pursue metric activities.

While the word "voluntary" does not appear in the guidelines portion of this document, in the policy statement it specifically states "Federal agencies shall conduct their metrication activities in a coordinated manner consistent with the objectives of the Metric Conversion Act and compatible with metric conversion trends in the Nation." Therefore it would make sense that if this document as a whole must be consistent with the Metric Conversion Act, it therefore must be voluntary. Likewise I am sure you will notice in reading this document that nowhere is there any enforcement mechanism which can compel any Federal agency to metricate.

Since publication of this document, some have raised the point that while the guidelines when coupled with the policy statement are consistent with the Law, the tone of the language may leave a misperception to the contrary. Given that this document is open for public comment, we do intend to relay our concerns in this area to the ICMP. Moreover, the Board is in the process of reviewing the entire question of Federal agency roles in metrication planning.

Congressman, it is unfortunate that you continue to suggest that the United States Metric Board through its activities is attempting to impose metrics upon the American people and American business. Such is not the case. The Board is fully conscious of its charter under Public Law 94-168 and has been and will continue to be fully responsive to the directives of the Congress and the President.

Sincerely,

Louis F. Polk

Louis F. Polk
Chairman

Enclosure

cc: House Appropriations Committee
Senate Appropriations Committee
House Science & Technology Committee
Senate Commerce Committee
USMB Members

RESULT OF BOARD DELIBERATIONS

The Executive Committee of the U.S. Metric Board placed the issue on the June 21, 1979 agenda of the Board at its Boston, Mass. meeting. At that meeting, following a presentation summarizing the material in this report and discussion pertaining thereto, the Board issued the following declaration by a vote of 13 for, 1 opposed (three Board Members being absent):

> The Petroleum Retailing industry generally indicates a willingness to dispense gasoline by the liter.
>
> Several states are taking independent action in requiring or recommending liter dispensing.
>
> Therefore, the United States Metric Board declares that:
>
> > This is an opportune time for the development of a planned and coordinated voluntary program of dispensing gasoline by the liter and the Board urges all affected parties to participate in the planning process.
> >
> > It calls attention to the need for adequate public information in connection with liter dispensing.
>
> Without taking this action, metric usage is likely to proceed in a haphazard fashion leading to public confusion, disparate and results and a negation of the positive cost advantage that a nationally planned and coordinated program offers.

Page 3 of Executive Summary of the United States Metric Board Report (June 29, 1979) entitled, "The Conversion of Retail Fuel Pump Computers to Sale by the Liter."

Mr. RUDD. Again, Mr. Chairman, I appreciate this opportunity to testify in connection with the fiscal year 1981 appropriation request of the U.S. Metric Board.

Mr. HIGHTOWER. Thank you, Mr. Rudd. We appreciate your testimony.

TUESDAY, APRIL 1, 1980.

BOARD FOR INTERNATIONAL BROADCASTING AND INTERNATIONAL COMMUNICATION AGENCY

WITNESS

HON. TOM EVANS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF DELAWARE

Mr. HIGHTOWER. We will be happy to hear at this time from the Honorable Tom Evans, a Member of Congress from Delaware. Mr. Evans, we are pleased to have you before the committee.

Mr. EVANS. Thank you very much, Mr. Chairman. I am deeply grateful for having the opportunity to appear before you this morning.

As you know, I am from Delaware and I had the privilege of being the Delaware chairman of Radio Free Europe. Ever since that time, back in the midsixties, I have been especially impressed with the work that Radio Free Europe, Radio Liberty and Voice of America do.

I realize that in this day and age of budget cutting that those who come before your committee and ask for an increase are about as welcome as skunks at family picnics. But I do want you to know that I fully recognize the need for austerity and the need to balance the Federal budget.

But I would say that in view of recent world events, the international broadcasting is one of the worst places to begin to make those cuts. In fact, the developments in the Middle East and central Asia seem to demand that we increase our funding for broadcasting just as it demands that we increase funding for other defense-related activities.

One of the problems we have had in dealing with other people and other nations is that we are often misunderstood by their populations. The citizens of countries where freedom of the press is denied rely on information from outside to gain knowledge of world events.

When this information is not available, it makes it easier for anti-American propaganda to be disseminated and accepted as truth. We need only to look at the Soviet Union's activity in this area to see the importance of international broadcasts in the world community. Radio Moscow and other Soviet radio operations broadcast in 63 languages for more than 2,000 hours per week. They are particularly active in broadcasts to the third world where, as you know, Mr. Chairman, we have an east-west confrontation going on at the moment.

The Soviet Union, for example, has been beaming inflammatory broadcasts into Iran since 1959. Those broadcast times have almost

doubled since the Shah's decline. These broadcasts no doubt contribute to the turmoil and to the anti-American hysteria that is present in Iran. I think we are at least partially responsible for the invasion of our embassay and the holding of our citizens hostage in Tehran.

I ask unanimous consent that a recent Wall Street Journal article from February 21, 1980, which details Soviet activities in this area be included as part of the record.

Mr. HIGHTOWER. We will be happy for the article to be shown as a part of your statement.

[The information follows:]

[From the Wall Street Journal, Feb. 21, 1980]

ON RADIO MOSCOW, GUESS WHO GETS RAP FOR THE AFGHAN CRISIS

U.S. AND FRIENDS, OF COURSE; BUT PROGRAMS OTHERWISE BECOME MORE LOW KEYED

(By Eric Morgenthaler)

Moscow. When West Virginia Gov. John D. Rockefeller IV recently got his state's liquor authorities to cancel all orders for Russian vodka to protest the invasion of Afghanistan, even Radio Moscow conceded that there was "some sense" in the move.

"It is about time some people in America sober up a bit—the governor of West Virginia included," said Igor Dmitriyev in a commentary beamed to North America. "To have them sober up a bit is so important that I don't mind if it is done at the expense of Russian vodka."

Radio Moscow? Making a joke?

Well, yes. Times are changing, even here. And Radio Moscow—the Soviet Union's shortwave voice to the world—is making an effort, of sorts, to shake its well-deserved image as a humorless, heavy handed propaganda machine. It is developing what for the Soviets is a new sound: It is become more relaxed.

A human voice

"We are trying to speak in a human voice," says Vladimir Zhuravliov, programming chief of Radio Moscow's English-language World Service. "We are trying to get rid of such words as imperialism and capitalism. We don't use them at all, really. We don't think it's human language."

Russian propaganda broadcasts in English date back to the revolution of 1917, when appeals were made to the workers and peasants of the world to recognize the new Soviet republic. Regular English-language broadcasting started in 1930, and broadcasting to North America began during World War II.

The slick and low-keyed approach, however, began in October 1978 with the start of the so-called World Service. An imitation in name and format of the venerable British Broadcasting Corp's World Service, the Soviet version broadcasts throughout the world in English for 19 hours a day with a mixture of news, commentary and music. The British publication The Economist calls it "better packaged than anything the Russians have done before."

Despite the news packaging, the tone hasn't changed that much. The message from Radio Moscow, as from all official Soviet media, is still strictly the Communist Party line. The world it depicts is generally one in which a peace-loving Soviet Union is put upon daily by the hostile forces of an evil outside world. Thus, as Radio Moscow tells it, one of today's most pressing crises is the "armed interference in Afghanistan"—by the U.S., Pakistan and China.

Leader in the Field

If that version of events sounds a bit surreal, it is all part of the game of trying to win the world's hearts, minds and ears. The Soviets play the game vigorously, broadcasting to foreign lands in more languages and for more hours than any other country.

Radio Moscow itself is on the air for about 1,550 hours a week, and it has programming in 63 languages; its English-language World Service accounts for 133 of those hours. Other Soviet radio operations raise the number of hours of external broadcasting to 2,020 a week.

The nearest competitor is the U.S.—whose Voice of America Radio Liberty and Radio Free Europe broadcast in 45 languages for about 1,812 hours a week. China is third in the number of hours broadcast. West Germany is fourth and the BBC is fifth.

The Russians are particularly active in broadcasts to the Third World. They broadcast in 11 African vernacular languages, for instance, compared with three for the BBC. The Russians broadcast in both Dari and Pashto, Afghanistan's two tongues; neither the BBC-nor the Voice of America transmits in either (although the Persian-language broadcasts of each can be understood by most Afghans).

In its Third World broadcasts, Radio Moscow usually doesn't bother with the sort of civility it is trying to inject into the English-language reports,. Thus, a recent broadcast to Afghanistan in Pashto quoted a soviet Moslem leader as saying: "The American imperialism has embarked on arming the rebels and sending them into the territory of Afghanistan, thereby interfering in the affairs of a sovereign state and causing bloodshed which is condemned by God." (God has been enjoying something of a revival on Radio Moscow lately, apparently because of the ferment in the Middle East.)

Such shrillness might go well among uneducated Afghan tribesmen, but it probably wouldn't settle quite as easily with an educated audience. And it is apparently a quest for the English-speaking educated that led Radio Moscow to introduce its World Service—with its softer, more urbane approach to affairs.

Aside from news on the hour, news headlines on the half-hour and the predictable political commentary, the World Service provides news and feature programs about less-politicized sides of Soviet life. These include a "Stamps and Hobbies" program and a "Mailbag" show on which a Soviet commentator with a Chicago accent answers listeners' questions about the U.S.S.R. Almost half of every hour is turned over to music—popular as well as classical, Western as well as Soviet.

"What we are trying to do is reach as many people as possible to tell them our side of the story on certain international events," says Vladimir Pozner, a leading World Service commentator, who speaks almost accentless American English (the product of boyhood years spent in the U.S., where his father was a diplomat). "We also want to tell them about ourselves, instead of having them hear about us from someone else."

Typical fare

What a listener might hear about is the latest anti-smoking campaign in Russia, the price of gasoline and the income taxes Soviet citizens pay. He might hear about Soviet attitudes toward homosexuality (it's "illegal") or of a Soviet scientist's thoughts on bringing the mammoth back from extinction (it's possible). An offering frequently used to rebut what Radio Moscow calls "the alleged absence of criticism of government" is a program of consumer compliants about the difficulties of shopping.

As often as possible, life here is presented as preferable to life in the West. But a continuing effort is made to present Soviet life in Western terms—even when the analogy is, at best, strained. Thus, Radio Moscow recently has been playing up the current "election campaign" for local offices in the Soviet Union; the true state of affairs is only hinted at, with the remark, "The members of the Communist Party and nonparty people have a common political platform."

The World Service thinks its new approach is succeeding. Officials say they don't know how many listeners they have, but they get some 1,000 letters a month from listeners all over the world. (The entire Radio Moscow operation gets 300,000 letters a year.) And some listeners seem to like the changes. One American who has followed the station for a long time notes approvingly that over the years the announcers have become "less bellicose" and have begun acting "as if they halfway care about listeners' reactions to their programs."

Much is the same

But for all the changes, Radio Moscow remains Radio Moscow. On December 18, a Radio Moscow broadcast ridiculed the "hullabaloo" in the West over Soviet troops reportedly in Afghanistan. It said relations between the two countries "are based on complete noninterference in each other's affairs" and dismissed the "noisy propaganda" about the "imaginary" troops with a quote from Afghanistan's premier, Hafizullah Amin.

Ten days later, with Mr. Amin dead in a coup and more than 40,000 of those Soviet troops quite visibly tromping the hills and roads of Afghanistan, Radio Moscow changed its tune.

Mr. Amin actually has been a "lap dog" of the Central Intelligence Agency, listeners were told. With him gone, the Soviets moved into Afghanistan to help it

"in rebuffing external aggression" from the U.S., China and Pakistan. And despite what those "inflammatory broadcasts from the West and China" say, the Afghans really like their Russian visitors. They are, as a Kabul man put it, "representatives of a great fraternal nation" come to assist "in the dark period of the Afghan people's struggle for freedom and progress."

Mr. EVANS. Thank you, Mr. Chairman.

The Board for International Broadcasting and the International Communication Agency are currently involved in stepped-up efforts to recruit and train broadcasters who can speak the numerous and difficult Moslem languages of central Asia. I believe it is imperative that we get the message across to the people of that critical area, the message of Soviet aggression in Afghanistan and the threat it poses to all Moslems in central Asia.

Just as you will never win a football game if you don't advance beyond the 50-yard line, we will never win the battle for freedom if we fail to carry the battle for freedom into the territories of the enemies of freedom.

How do we do that? By force of arms? I hope not; even though our adversaries are using arms to extend their domination. There is a force which we have that is more powerful than arms. It is the force the Ayatollah Khomenis and the Communists of the world fear most. It is ideas. As Lenin, the father of Russian Communism once said, "Ideas are more fatal than guns."

Mr. Chairman, the importance of our efforts in this field cannot be under-estimated. For millions of persons behind the Iron Curtain, our international broadcasts are their only source of truthful information about actions by their own governments.

A recent UPI story from Moscow illustrates the power of our international broadcasts. For Andrei Sakharov states the story, "exile means sitting long hours at a bare wooden table listening to the Voice of America," often, according to his wife, "learning for the first time the details of his banishment."

Mr. Chairman, we do not need, nor do we want a propaganda agency. We do not have to improve on the truth because our ideas and accomplishments speak for themselves. This is, I believe, our greatest advantage. We need not color the truth, but merely relay it to the world in a strong and clear voice. Mr. Jefferson said many years ago, "Here we are not afraid to follow the truth, wherever it may lead, so long as reason is free to combat it." He believed, as I do, that the truth will always win out over lies. But it is critical that the truth get through.

Last year the Soviets spent nearly $300 million jamming the broadcasts of Radio Free Europe and Radio Liberty, almost four times the total budget for these two radio services. We obviously, Mr. Chairman, must be having an impact that they do not like.

In testimony before the Senate Foreign Relations Committee, the Board for International Broadcasting Chairman, John Gronouski, stated that in response to the invasion of Afghanistan and the Iranian crisis, plans were worked out between the BIB and the State Department which would improve both the quality and audibility of broadcasts to the fast growing and nationality-conscious Soviet Moslems.

In addition, a recent article in the Washington Star, February 23, 1980, reported that on December 12, 1979, President Carter

approved a National Security Council recommendation to strengthen RFE and Radio Liberty broadcasts in Turkic languages to the 40 or so million Moslem people of Soviet central Asia.

I regret very much, Mr. Chairman, that the President has now apparently chosen to bottle up this worthy and urgently needed plan in the Office of Management and Budget budget. Apparently in a struggle to shoe horn the Radio Free Europe and Radio Liberty budgets within the Administration's anti-inflation guidelines, Mr. Carter has probably chosen the worst possible time to place restrictive budgetary guidelines on such a vital aspect of our national defense.

I come before you today to urgently request that these plans for strengthening our international broadcasts to Soviet central Asia be brought before this committee and the Foreign Relations Committee so that they may be examined and implemented as soon as possible. It is critical for our national defense that this year the Congress make its intentions clear. Our international broadcasts must be made stronger.

I urge this committee to give the Board for International Broadcasting and the International Communication Agency the means to send the truth to as many people in the world as possible.

We need to quickly acquire additional means of transmission beyond the facilities now on line to reach the critical Moslem populations of central Asia. A higher funding level than the 5½ percent increase requested by the Administration is necessary to build new transmitters, to buy more electric power and run them, and to train additional staff in the many and difficult languages of the Moslem world.

It is my understanding in discussions with knowledgeable persons in this field that an additional $10 million would be sufficient to begin this needed expansion. For the cost of about seven X–M tanks at about $1.5 million per copy, we could begin to bring the truth to an additional 30 to 40 million people. Frankly I would suggest that rather than the elimination of seven X–M tanks, we might start to work on the $10 billion in the Department of Energy. I think this is a good investment for Americans.

I hope that your committee will be able to substantially increase the funding level for Radio Free Europe and Radio Liberty. I thank you again Mr. Chairman for giving me this opportunity.

Mr. HIGHTOWER. Well, thank you Mr. Evans for a very eloquent statement. We appreciate it very much. You state very well the case for Radio Free Europe and Radio Liberty. I hope you will have an opportunity to make the same statement on the floor of the House in support of this budget.

Mr. EVANS. I certainly will, sir. Thank you very much.

TUESDAY, APRIL 1, 1980.

U.S. METRIC BOARD

WITNESS

BEN TURNER, AMERICAN MEASURES AND AMERICAN STANDARDS ASSOCIATION

Mr. HIGHTOWER. We will now hear from Mr. Ben Turner. Mr. Turner, you are with the American Measures and American Standards Association?

Mr. TURNER. Yes, sir.

Mr. HIGHTOWER. We will be happy to have your statement at this time.

Mr. TURNER. Thank you, sir. I have a short statement I would like to read.

Mr. HIGHTOWER. We have your printed statement. You may feel free to elaborate on it as you like.

Mr. TURNER. Mr. Chairman, I ask you and other Members of Congress to give careful consideration to not funding the U.S. Metric Board for fiscal year 1981 since funds used to date have not been expended for lawful ends.

This agency, charged by statute with functions of planning, coordination, and education, has not performed the first coordination of conversion in private industry or in government. Some conversions have taken place, all without input from the Metric Board.

It is ridiculous to think that private industry will ask federal bureaucrats to come into their plants or offices. Businessmen want to test the water, keeping all options open, and the last thing they want is the interference and meddling from bureaucrats who may know next to nothing.

Nor has the Metric Board conducted any educating in the public or private sectors as required by their Organic Act.

Section 6 is quite specific. This requires the Board to assist the public through information and educational programs to become familiar with the meaning and application of metric terms and measures in daily life. Despite requests, the Board refuses to publish a guideline for usage of the International System of Units and the Board lacks the qualifications to teach or even use this new system of measurement named in section 4(4) of Public Law 94-168, which is the Metric Conversion Act.

Mr. John Donnelly is in charge of the Office of Public Information, now known as the Office of Public Awareness. The education issue was raised in my presentation to the Metric Board forum held in Arizona six weeks ago and on three occasions Mr. Donnelly stated he was an English major and knew nothing about mathematics. How can this staff teach and educate when they know so little about metrology and the International System of Units? This new system is the sole reason and purpose of this unique agency.

Board member Sydney Andrews suggested hiring someone with expertise in the International System of Units. During the ex-

change, Malcolm O'Hagan suggested one staffer, Mr. John Tascher, understood the International System of Units. I was amazed. Only one, and after two years and millions of dollars. What do they see as their purpose?

Andrews, being a weights and measures official for many years, stated that Tascher did not understand the system and was not qualified. This discussion was taped and might prove most interesting. It will establish that none of the members or staff are qualified with the International System of Units, and this includes Executive Director Dr. Malcolm O'Hagan and Chairman Louis Polk.

Cited as an authority on international measures and systems in the just published 1979 Metric Board annual report, Louis Polk, Chairman of the Metric Board and a delegate to the conference that founded the new system, could not give his own height in SI measure when questioned during a media interview. To the acute embarrassment of the Metric Board, Dr. Polk cited a centimeter value off the mark approximately 1½ feet.

One page 9 of the 1979 report, Dr. Polk has the audacity to include strongly suggestive material that hospitals should report the weight of infants and children in kilograms to reduce the chance of error in prescribing medication.

The kilogram is not weight in the International System of Units of the 1975 law, kilogram is weight in the now obsolete metric system of 14 Stat 339 of 1866. Dr. Polk has trouble separating the two systems. But beyond this, the material was taken from a report of a Boston hospital stating that weighing and measuring babies with metric units posed a hazard for medication purposes. The truth was abused. When this authority on international metrology cannot handle the simplest of measures, that of his own height in SI measure, he should not suggest or expect working nurses to endanger the lives of infants and children with his confused application of terms as in the 1979 report.

The only purpose in funding the Metric Board is the system of measurement cited in section 4(4), the International System of Units. The Board has admitted a lack of understanding of this system. Their incompetency is sustained by their failure to teach proper terms and applications and mislabeled products where conversion has taken place attest to this, such as the wine industry, the distilled spirits and mislabeled p-metric tires. The cost of just correcting the tire molds is estimated by DOT at $11 million. The Metric Board and DOT refused to heed the GAO, as well as Congress, on instructions regarding tire labeling.

The Metric Board is incompetent with terms and applications of the new system of the 1975 law and should not be funded.

I have a copy, sir, of a presentation that I made to the Metric Board on February 14, 1980, at the Arizona forum. I would like to, if I may, present that for the record.

Mr. HIGHTOWER. Would you like to have it included as part of your statement?

Mr. TURNER. Yes, sir.

Mr. HIGHTOWER. We will be happy to receive it for that purpose.

[The information follows:]

AMERICAN MEASURES & AMERICAN STANDARDS ASSOCIATION

AMASA

NON-PROFIT
EDUCATIONAL
ORGANIZATION

P. O. BOX 9718
BIRMINGHAM, ALABAMA 35215

PHONE 205-854-4001

PURPOSE
TO DEFEAT & ERADICATE
"METRICS" FROM USA SOIL

Excuse given for not attending.

The United States Metric Board and Public Law 94-168

Public Law 94-168 established a 17 Member Metric Board to plan, coordinate voluntary conversion, and to educate all sectors and interests.

It is my contention that the U.S. Metric Board has been a dismal failure. The Board has not sought to exercise the functions, authorities, and requirements of this law, nor have they accepted the duties and responsibilities that goes with the statutory authority.

I think it is time to call the Board's attention to certain parts of Public Law 94-168.

Sec. 6. It shall be the function of the Board to devise and carry out a broad program of planning, coordination, and public education, consistant with other national policy and interest, with the aim of implementing the policy set forth in this Act. In carrying out the program, the Board shall -

Sec 6 (7) assist the public through information and education programs, to become familiar with the meaning and applicability of metric terms and measures in daily life. Such programs shall include--

(A) public information programs conducted by the Board, through the use of newspapers, magazines, radio, television and other media,.

The basic thrust of the law is planning, coordination, and education, and the evidence available at this date indicts the Board as incompetent, or better yet, a total failure. We are spending millions for the Board budget and all we get in return is a dud.

1. Four and one half years after enaction of PL 94-168 and very few people have any concept of the true meaning of the law. The Comptroller General and the Metric Board hotly dispute Congressional intent, fortunately the last year brought some sanity. Congress enacted House Report 96-247 into law and instructed the Board on several matters.

2. After 2-1/2 years, ask 100 people and 90 to 95 do not know of the existence of the Metric Board.

3. Ask 100 people, and the same 90 to 95 have never heard of the International System of Units, and this is the system named in Public Law 94-168.

4. Examine dual labeled food store items, more than 50 percent are mislabeled, the same goes for wines and the hard stuff. The percentage actually goes far beyond the 50 percent. Packaged medicines are mislabeled, and I have seen many prescripton items mislabeled, these are mostly hospital prescriptions. Other medical items and devices are mislabeled. P-metric tires are mislabeled. In short, where there is use of measurement units of Meter-Gram systems, mislabeling is rampant.

Since the symbols to use with the International System of Units have been published in the Federal Register, mislabeling becomes a legal issue. The law defines what you can and cannot use, this includes whether upper or lower case letter symbols are to be applied.

If the Board expects to overcome the enumerated problems and convert the United States to "metrics" by 1990 per the published dreams of Malcolm O'Hagan, then the Board is going to have to get off it's tail and get going. The Board will have to utilize the articles of PL 94-168, and educate, plan, and do at least one coordination. This Board has all the tools required, a law tailored by the Metric Hothouse, the National Bureau of Standards, the staff, a budget, at least for this year, and the backing of metric organizations such as the National Bureau of Standards, the American National Metric Council, the U.S. Metric Association, and those paragons of virture and guardians of our commerce, the National Conference on Weights and Measures which is composed of State and Local Weights and Measures Officials.

Why hasn't the Board published a guideline for SI usage? Conversion factors? The law plainly gave the Board express authority to publish in the newspapers. Is the Board afraid to go public and come out from under their hiding place?

The answer is yes. And despite a statement to the contrary. Quoting from a letter published in the GAO Report, this is the Ad-Hoc Committee letter dated August 7, 1978. "Nor can the Board be unduly concerned about its own popularity while it devotes its best effort to this most serious and worthy subject."

The Board has not devoted its best effort to functions set out in the Metric Conversion Act of 1975. The Board is going to have to use a few full page newspaper ads and suffer the resulting hue and cry from the vast majority that oppose their efforts.

I am aware that the Board and the staff realize fully that a full page ad showing the grotesque and mickey mouse scientific International System of Units, the rigid rules for usage, including a special method of writing numbers will turn people off and be instant death. This is what the Board is hiding.

One suggestion in the Metric Reporter was to use the 50,000 pharmacists in the U.S. to educate the people. If this is done you will first have to educate the educators, the 50,000 pharmacists. These people know absolutely nothing about the International System of Units, they know some of the old metric units since these are used in his business, but for anything else those people are in opposition to metrics. And the job of educating belongs to the U.S. Metric Board by the law.

May I suggest the first to be educated should be the Board and the staff.

Instead of lying and pumping out a steady stream of putrid propaganda, the Board is going to have to be honest and tell the truth to the people and with frankness. Let them know that various and sundry metric systems exist, and that all of these metric systems have been discredited as failures. Tell them it was necessary to found a replacement in 1960, and that metric was found to be so bad as beyond repair.

The Metric Board foolishly follows the propaganda and illegal path cut by the National Bureau of Standards, we find the new system labeled as the Revised Metric System, the Modernized Metric System, and as the International Metric System in Metric Board and/or NBS publications.

The law of 1975 covers and names one system, International System of Units aka SI. A small band of metric zealots sought to and did snow the Congress and the people, and we now have a 1975 law for one system and an 1866 law for yet another metric system. On top of this, many things from other metric systems are in use and promoted. What we are seeing is a babel of metrics, its like speaking in unknown tongues. Who could be expected to understand or grasp anything in this utter confusion of units and systems, and different laws.

The prophetic words of the asute John Quincy Adams are now coming true and the fruit is at hand. The Metric Conversion Act of 1975 is a product of Congress, and the Board was confirmed by the Senate. Let us read and heed the warnings of Adams contained in his most scholarly Report of 1821. From page 13.

> "In this conflict between the dominion of usage and law, the last and greatest dangers to the principle of uniformity proceed from the laws themselves. The legislator having no distinct idea of the uniformity of which the subject is susceptible, not considering how far it should be extended, or where it finds its boundary in the nature of things and man, enacts laws inadequate to their purpose, inconsistent with one another; sometimes stubbornly resisting, at others weakly yielding to inveterate usages or abuses; and finishes by increasing the diversities which was his intention to abolish, and by loading his statute book only with the impotence of authority, and the uniformity of confusion."

Truer words were ever spoken, weights and measures in the United States is in utter confusion, chaos, and corruption.

Who is responsible for making a prophet of John Quincy Adams. The legislators in passing laws are partly responsible, but the greater responsibility lies with a tiny few, those that plan and plotted to bring about this absurd insanity, Louis Polk belongs in the tiny few, he is an old hand at the game of metrics.

Corruption has been one hallmark of the metricite gang, another hallmark is the use of crafty and clever language.

It is now time to cite a few specifics, instances of the unlawful actions of the metricite crowd. The Metric Nut-house is the National Bureau of Standards. What have they done that is illegal and corrupt.

Allen Astin was the Director of the NBS when the International System of Units was founded, he also served as president of the General Conference for Weights and Measures that founded this new and different system, another delegate from the United States was Louis Polk. This international General Conference for Weights and Measures operate under the authority of an 1875 instrument. Titled "Convention - Weights and Measures," it is 20 Stat. 709. No provision or authority is in this law for the CGPM to found a new or different system. The International System of Units cited in Public Law 94-168 has no lawful basis or legal foundation. Astin exceeded the authority of this law, and Polk was there.

Astin's role in corruption regarding weights and measures dates from at least Oct 8, 1954. It was on this date that he met with a few agents of alien nations and determined that the standards of U.S. Customary measurements would be illegally changed.

Did this director of the National Bureau of Standards have any legal authority to meet with these foreigners and for the express purpose to alter U.S. standards. Apparently he knew he did not and that he was acting illegally, the Report generated from this meeting is labeled, "an informal meeting"

The Congress shall have power to fix the standard of weights and measures, is the language found in the United States Constitution, it is Article One and Section 8, clause 5.

Yet this head of the same agency that is charged by law as custodian of the standards of the United States saw fit to alter these standards. What was his purpose in violently breaking U.S. law and in fact our supreme law, the Constitution? To gain easy conversion factors from U.S. Customary units to "metric units".

Was this illegal, the communications between the international conspirators convict them in their own language. I have gained and hold copies of the Reports generated from the 1954 meeting and other meetings, also copies of letters and wires between the parties.

From this crass action resulted the "1959 Refinement of the Values of the Yard and the Pound". We have two differing foot measures, the International Foot and the Survey Foot. Would you believe that neither is legal or correct. This tampering with standards is an old habit of the NBS or as this agency was known prior to 1901, the Office of Weights and Measures under the U.S. Coast and Geodetic Survey. Geodetic could not and would not accept Astin's foot and the foot used by Geodetic came to be dubbed Survey Foot.

Actually, Geodetic does not use the foot or other U.S. measure, from 1815 the metric meter has been the standard of length for this agency. The U.S. Geodetic grid has always been surveyed using the meter, from 1815 to 1893, it was a meter standard known as the Committee Meter. This standard was later found to be beyond measuring with other standards. Hardly more than scrap iron. Its now on display at the museum of the National Bureau of Stds. in Gaithersburg, Maryland.

Corruption of standards can be traced back to 1848 and Supt Bache, who was to develop the metric blueprint in 1856, this is Senate Ex Doc 27.

The Metric Board may have liability in the matter of a years production of p-metric tires that are illegally labeled and factored. A lawsuit is nearing to becoming a fact. Did the Board at any time warn the tire industry or the National Highway Traffic Safety Administration about labeling problems. They did not. It wasn't until I filed a Petition that NHTSA instructed Firestone and Goodyear to change their labeling. I have copies of the letters of Notification, one is addressed to the President of Firestone and the other to a vice-president of Goodyear. Where was the Metric Board and their education program?

Most of the Members are not knowledgeable in metrology matters enough to understand they are being used somewhat and are being misled. I would recommend that each consider his or her continued service as a Member of the Metric Board and/or as an employee.

Now what has the Metric Board been doing to perpetuate this tradition of lawlessness with weights and measures. And beyond their efforts to promote metrics, when they are not allowed this under law.

I would now like to read two letters that touch on some matters pertaining to legal problems that may confront this Metric Board.

Letter to Chairman Louis Polk dated 1/10/80 and unanswered.

Letter to Congressman John Slack, Chairman, Appropriation Subcommittee, letter dated February 11, 1980.

NON-PROFIT
EDUCATIONAL
ORGANIZATION

AMSA
P. O. BOX 9718
BIRMINGHAM, ALABAMA 35215
PHONE 205-854-4001

PURPOSE:
TO DEFEAT & ERADICATE
"METRICS" FROM USA SOIL

January 10, 1980

Chairman Louis Polk
Interagency Committee on Metric Policy
Suite 600
1815 North Lynn Street
Arlington, Virginia 22209

Mr. Donnelly has been kind enough to furnish me with a copy of your June 11, 1979, Memorandum to Interagency Committee on Metric Policy (ICMP).

Has this Policy been published in the Federal Register as per your statement of June 11, 1979? If so, then I must have missed it and would appreciate a copy. Since the Congress enacted Public Law 96-68, including House Report 96-247 and the Congressional Record of July 12, 1979, as legislative history for this Sept. 24, 1979, law, has this Policy statement been changed to reflect specific instructions from the Congress regarding federal agencies and conversion activities?

Sec. 601, under Title VI of PL 96-68, expressly forbids use of any appropriations in the Act for propaganda purposes. In your Policy statement of June 11, 1979, it seems as if you are, by design or error, promoting misleading information. You cite 14 Stat. 339 as "Use of the Metric System of Weights and Measures Act of 1866". The correct title is "An Act to authorize the Use of the Metric System of Weights and Measures." This is from the Statutes at Large and also from the original handwritten law. In the context of your Memo, the title, as used by you, conveys a false impression, and to me, that is just propaganda and forbidden by law.

In citing 20 Stat. 709, you incorrectly used "Treaty of the Meter", while the correct title of 20 Stat. 709 is "Convention —Weights and Measures". This 1875 instrument was signed on May 20, 1875, but the official signing and sanctioning into law took place on Sept. 27, in 1878. There is no General Conference on or of Weights and Measures, it is General Conference for Weights and Measures. NBS promotes the same propaganda and labels the 1875 instrument as Treaty of the Metre.

Further, as you well know, the International System of Units has not "become the uniform internationally accepted system of weights and measures". Thats wishful thinking and propaganda. Can you name just one nation? Most "metric" nations, in common practice, continue to use their long established versions of Meter-Gram systems. How many are exclusively using the pascal unit? And has Germany given up the pfund? The kilopond? The horsepower? None use the SI unit of kelvin for temperature in common practice, all use centigrade except for some that have opted for the unit name of celsius, centigrade and celsius being metric and not SI. Has any nation converted to the SI electrical unit values? There being a difference in the values of the electrical units of SI and metric, units having the same names. Who has given up using gram for weight?

Since you are citing 14 Stat 339, are you coordinating the particular metric system therein for use? If so, then the values cited in Sec 2 Tables require a reduction in the length of the meter of .0109171 inches, the U.S. meter being legally defined by the U.S. inch despite the Metric Board citation of Customary units being defined in terms of metric standards since the last century. Apparently you are alluding to the illegal and unconstitutional "Mendenhall Orders" of 1893 and 1894. How are we to fit the law of 1866, Stat 339, and the "Mendenhall Orders" in with the "1959 Refinement" by Allen Astin? Should the Chairman of the Metric Board allow promotion of illegal and corrupt activities of the National Bureau of Standards?

Guidelines published in the Federal Register of November 15, 1979, seems to be written by different parties, both may need education on Public Law 94-168. In Sec 4 (4), the system defined is the International System of Units, this is United States law. On page 65942, Sec. 503.1(a), the French language title is cited, but on page 65940 we find "Systeme Internationale".

Someone may be confusing measurement systems with a bit of music fondly revered by certain ideology aspirants. Do you think it may be "found necessary to suppress" the name kelvin and will we have to use "gradous"? Or, was that taken care of with the "special name" celsius for the unit kelvin? Time magazine had a most interesting item in their issue of Nov. 26, 1979.

And finally, do you suppose in another two hundred years the French will be able to part with the livre (pound) and their still cherished unit of length, the pied (foot)?

Ben Turner

Ben Turner, Pres. AMASA cc: Congressman Eldon Rudd

AMERICAN MEASURES & AMERICAN STANDARDS ASSOCIATION

AMASA

NON-PROFIT
EDUCATIONAL
ORGANIZATION

P. O. BOX 9718
BIRMINGHAM, ALABAMA 35215

PHONE 205-854-4001

PURPOSE
TO DEFEAT & ERADICATE
"METRICS" FROM USA SOIL

February 11, 1980

Congressman John Slack
Chairman, Appropriations Subcommittee
1536 Longworth Building
Washington, D.C. 20515

Dear Congressman Slack:

I fail to understand how the Metric Board can justify any additional travel cost with their budget already exceeded by more than double. This budget, per information furnished to me, was $72,000 and they have spent $146,000, and this is before taking their traveling carnival to Phoenix.

Is there no way for Congress to require this agency to conform to laws passed by Congress? The rest of us have to obey laws or suffer the consequences.

To clarify Public Law 94-168 and assist the Board in understanding their functions and responsibilities, Congress attached House Report 96-247 to the FY 80 Appropriations Act, PL 96-68. This Report, developed by you and the subcommittee, has had little or no effect on how business is conducted by the Board, and evidently Chairman Polk and Executive Director Malcolm O'Hagan have placed themselves above the Congress and laws, federal and state. Congress acts to represent all the people and when Congress is defied, the people are defied.

Since it has become painfully evident that this Board has no intentions of complying with lawful instructions, and cannot be made to conform to laws enacted by the people's representatives, then it is time for the Congress to seek a more effective mechanism.

Public Law 94-168 has a dissolution clause for the Metric Board and this must be considered as one option available to the Congress. Another option has to do with funding.

To cite a specific. Using public monies, the Metric Board has embarked on a continuing campaign to promote conversion of gasoline pumps to sales by the liter unit of measure.

The organic law for the Metric Board is Public Law 94-168 and the system named in Sec 4 (4) is the International System of Units as established in 1960. There has never been a liter unit in this system. Actually, the liter belongs to no system as the liter unit was abrogated from Metric Systems in 1964 by Resolution 6 of the 12th General Conference for Weights and Measures. The reason for discarding the liter unit was because the liter standard was inaccurate by 28 parts in a million.

This small inaccuracy means little in measuring gasoline or other liquids in commerical sales, but there is a legal complication other than improper measure. Units must be standarded by Congress per Article One and Section 8 of the U.S. Constitution. Any standard of measurement not so factored is illegal and unconstitutional. The liter being used by the Metric Board in their gas pump campaign has not been fixed by Congress, and should not be used, much less promoted, and especially by the Metric Board.

How will the people ever become educated when the Board perpetrates intentional confusion of units and systems?

Since the liter situation has surfaced, I have received telephone calls from Members and employees of the Metric Board asking for edification on the "liter". Just how can the Metric Board educate people per their statutory responsibility when Members and employees lack understanding, and lack confidence in the Chairman and the Executive Director? When participants of Board activities feel they must go outside to be properly informed, then a clear indication of deliberate deception is seen.

Polk and O'Hagan should have knowledge of metrology matters, both have been long involved in the metric cause, and now serve in positions of responsibility and leadership. Either they lack qualifications or they are seeking to advance the metric cause by deceiving not only the public, but their own people.

Should the Congress allow these illegal and shabby matters to continue, which fulfill a self-serving purpose of Polk and O'Hagan? And at public expense?

Sincerely,

Ben Turner

Ben Turner

cc: Congressman Eldon Rudd

Mr. HIGHTOWER. Mr. Turner, I claim no expertise in weights and measures, metric or non-metric, but how do you distinguish between the International System of Units and the now obsolete metric system that you cited from 14 Stat 339 of 1866? Please describe the two different systems.

Mr. TURNER. Well, there were several metric systems, but basically the main difference is the metric system recognized gravity, it is called a graphometric system. This new system founded in 1960, and Dr. Polk was a co-founder and a delegate to that convention, is the International System of Units. It is a brand new system, sir. It has never been tried anywhere. No one in the world is on that system.

Mr. HIGHTOWER. Is the terminology the same as used in the metric system?

Mr. TURNER. We have some names of units such as meter and kilogram. The names are the same, but the definitions of those units or those standards for those units are altogether different. There is not one thing in that International System of Units that is compatible with the metric system. They are two totally radically different systems.

Mr. HIGHTOWER. Who adopted the International System of Units?

Mr. TURNER. The general conference on weights and measures.

Mr. HIGHTOWER. Was this an international conference?

Mr. TURNER. Yes, sir this is an international conference. They are operating under 20 Stat 709 which is cited in section 21 of the Metric Conversion Act. They don't have authority to found a new system.

Mr. HIGHTOWER. Was this convention called by some agency of the United Nations?

Mr. TURNER. No, sir. This convention has a six-year time schedule for meetings. They must meet every six years according to the authority under the act.

Mr. HIGHTOWER. Is the Act that you quoted an act of the United States Congress?

Mr. TURNER. It is 20 Stat 709. This was an international convention that was ratified by the Senate in 1878. It was amended in 1921 and ratified in 1923.

Mr. HIGHTOWER. Is this the convention that adopted the International System of Units?

Mr. TURNER. Yes, sir.

Mr. HIGHTOWER. How many other countries have adopted this system?

Mr. TURNER. Many countries have adopted it by statute, but the common practice has not adopted the system. The system has not been adopted for common use anywhere in the world. Germany and France are the two primary metric nations in Europe and they are having trouble with the system. They cannot use some of the items .

Mr. HIGHTOWER. Would you give us an example?

Mr. TURNER. The liter was never in the International System of Units. That is an old metric term. In fact it was abrogated in 1964 and tossed out. But they are having to maintain it because the SI term for volume will not work. It is not viable.

Mr. HIGHTOWER. What is the SI term for volume?

Mr. TURNER. The cubic meter. If you place the equivalent, the decimeter cubed, on a meter like a gas pump computer and you compute from one to two, you go from approximately one liter to more than 4 liters. The mathematics of the thing will not function. I am a student of metrology, the system is very shabby. It will not function mathematically.

Mr. HIGHTOWER. What is your business or profession?

Mr. TURNER. I am retired, sir. My life was spent in the metal business.

Mr. HIGHTOWER. Well, Mr. Turner, we are happy to have your testimony here today. I regret that more members of the committee were not here to hear it, but we do have it in the record and we appreciate your giving your time.

Mr. TURNER. Thank you very much. It has been a real pleasure to come here and get a chance to say a few words.

TUESDAY, APRIL 1, 1980.

BUREAU OF PRISONS

WITNESS

MICHAEL KROLL, COORDINATOR, UUSC NATIONAL MORATORIUM ON PRISON CONSTRUCTION

Mr. HIGHTOWER. The committee will be in order.

We are happy to have Mr. Michael A. Kroll, Coordinator of the UUSC National Moratorium on Prison Construction. We will be happy to have your testimony at this time, Mr. Kroll.

Mr. KROLL. Thank you, Mr. Chairman. I have a more detailed testimony which I have submitted for the record. I will limit my remarks to just a few minutes.

Mr. HIGHTOWER. Your entire testimony will appear in the record at this point.

[The statement follows:]

National Moratorium on Prison Construction

324 C STREET, S.E. • WASHINGTON, D. C. 20003 • TELEPHONE: (202) 547-3633
Coordinators: Andy Hall and Michael A. Kroll

TESTIMONY

OF

MICHAEL A. KROLL

COORDINATOR,
UUSC NATIONAL MORATORIUM ON PRISON CONSTRUCTION

before the

HOUSE APPROPRIATIONS SUBCOMMITTEE ON
STATE, JUSTICE, COMMERCE, and the JUDICIARY

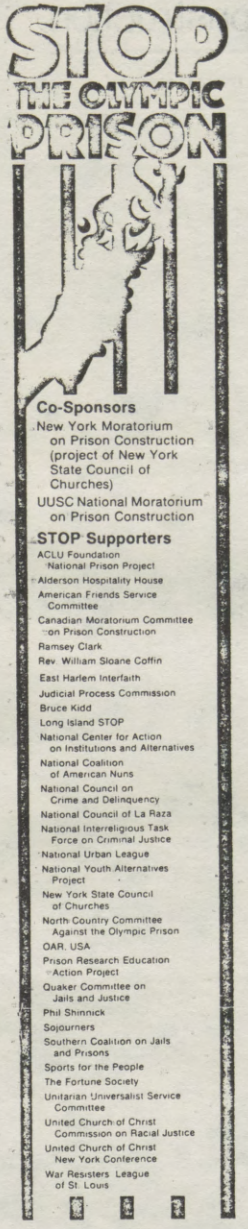
REGARDING:

FEDERAL BUREAU OF PRISONS

APPROPRIATION REQUEST FOR FY '81

TUESDAY, APRIL 1, 1980

A Joint Venture of
THE UNITARIAN UNIVERSALIST SERVICE COMMITTEE
Seeking Sound, Systemic Alternatives to Incarceration
and
THE NATIONAL COUNCIL ON CRIME AND DELINQUENCY



My name is Michael Kroll and I am the Coordinator for the Washington office of the National Moratorium on Prison Construction, a project of the Unitarian Universalist Service Committee. The UUSC is a private, non-profit organization representing approximately 10,000 members nationwide. Although it has projects throughout the world, its primary domestic focus is the National Moratorium on Prison Construction.

I am testifying today on the request by the Federal Bureau of Prisons for $5,948,000 to staff and operate the 500-bed Federal Correctional Institution at Ray Brook, New York--the Olympic Prison. Unlike most organizations and individuals coming before this Committee and lobbying for a particular appropriation, I am lobbying against a particular appropriation. Specifically, I am asking that the request for $6 million to operate the Olympic Prison be deferred for at least one year until the need for the facility can be established. In keeping with the national mandate to trim the budget, such a postponement would save an immediate $6 million this year, and could, conceivably, save many times that amount over time. The National Council on Crime and Delinquency, using a very conservative 6% inflationary rate, calculates that the cumulative cost for maintaining just one prisoner at Lake Placid over a forty year period (which is much less than the average life expectancy of most prisons) would exceed $10 million. With

500 prisoners, the total cumulative expenditure after forty years would exceed $5 billion! Indeed, if after a year's delay, it is determined the Bureau could adequately justify the facility, this Committee could then appropriate the money for its operation. Since the amount required for operating the prison will rise next year regardless of whether it is opened this year or next, nothing at all would have been lost, and a great deal might have been gained.

When Federal Prison Director Norman Carlson first came to this Committee almost exactly three years ago to seek funding for this prison, he offered no testimony at all concerning the need for a prison in Lake Placid. Instead, he spoke of the desperate need for providing Olympic athlete housing in time for the 1980 Winter Olympics (testimony attached). "The Olympic Organizing Committee project manager has indicated that construction must begin in early 1977 in order to complete the facility by September 1979, the date required by the International Olympic Committee," he testified at that time. "Early approval of this supplemental request is essential if the government is to complete the project in time for the opening of the Olympics." This failure to provide a sufficient rationale for a prison prompted two members of this Subcommittee to question just how prison policy was being promulgated in this case. In a powerful dissent attached to the appropriation (attached), Subcommittee members Yvonne Burke and Joseph Early wrote:

"What is troublesome about the proposal is the lack of documented planning or a record of public discussion concerning either the intended uses or site location...The disadvantages of this facility in this location for the intended use far outweigh the immediate, convenient short term benefits. The decision to utilize the facility as a youth detention center

should be deferred until the entire planning process has been made public and reviewed by the appropriate Congressional committees....the Lake Placid facility should be deferred until all of the ramifications of locating the facility at Lake Placid are considered."

Those ramifications have still never been considered. As with some of the greatest dissenting opinions of the Supreme Court, the views of your colleagues should become the majority opinion of this Subcommittee.

The reason Mr. Carlson did not try to offer a rationale for locating a prison in Lake Placid is simple: he did not believe one existed. This was underscored just last month in an Associated Press news story which quoted Harry Fregoe, a spokesperson for the Lake Placid Olympic Organizing Committee who said, "We approached the Prisons Bureau to build it, they didn't approach us. We almost had to go down on our knees and beg them to do it." Mr. Carlson, himself, testified before the House Judiciary Subcommittee: "Lake Placid is not an ideal site for the construction of a correctional facility and we would not have sought funds for construction of a facility in that area *if it were not for the desire of the Olympic Committee* to find suitable after use for the facility." Yet the evidence is overwhelming that the prison after use is far from suitable. It is instructional to note that during that same hearing last year, Chairman Robert Kastenmeier said, "I suspect that if this Committee were asked at the time to authorize [the Olympic Prison], we very likely would not have authorized it."

If there was little, if any, justification for a prison facility in Lake Placid at the time of the appropriation, there is even less justification now. Since September, 1977, the federal prison population has declined steadily and dramatically from a high of 30,500 to fewer than 23,500 today. That 23% decline shows every indication of continuing. Indeed, for the

first time in many years, physical capacity actually exceeds total population. More important, that happy circumstance can only improve as the Bureau opens the facilities currently under construction. This year alone, *excluding Lake Placid,* the Bureau of Prisons will add a total of 1,176 new beds. Of these, 664 are located in the Northeast (Otisville, N.Y. and Danbury, Ct.). If you include those facilities not scheduled for opening until 1981 and 1982, *still excluding the 500-bed Lake Placid facility,* the Bureau--currently under capacity--will have a total of 1,785 new beds (memorandum attached). These figures do not even count the 500 additional beds the Bureau is requesting in this budget in addition to Lake Placid: 375 in Madera, Calif. and 125 in Boron, Calif. Given these numbers, it is truly difficult to understand the Bureau's justification for yet another 500 beds in Lake Placid.

Let me be frank with this Committee. Even if the Bureau could justify the Olympic Prison on some rational basis of relieving crowding, I would oppose it. I would oppose it because its location, more than 300 miles from any major urban center guarantees that the thousands and hundreds of thousands who would be interned there over its lifetime would emerge more scarred and debilitated at the end of their experience than at the beginning. If prisons today cannot guarantee the rehabilitation of the inmates--as clearly they cannot--at the very least they should provide an environment which offers some hope of preventing further deterioration. That is in the interest of us all. The Bureau of Prisons' standard that prisons be located within fifty miles of the cities from which their inmates are drawn is a good one, based on rational and modern concepts of penology. Those concepts were well articulated by a federal judge in San Francisco before he became Deputy Attorney General of the United States. In testimony before the House

Judiciary Committee in 1975, Judge Charles Renfrew said:

"I believe the emphasis should be on work release, study release, home furloughs, and community treatment centers. This means that our institutions have to be located in or near the area from which the inmates have come. We need to strengthen the ties of the inmate to his family, and this I think should be taken into account in the location of our prisons. How many people have been with the Armed Forces in the loveliest parts of the country, and as soon as they were able fled from those areas just because they were unfamiliar surroundings, somewhat hostile environments, with an absence of loved ones and familiar surroundings..."

The only excuse now for the Olympic Prison is that it is a *fait accompli*. But is it?

In Tennessee, a prison 90% completed ran into such strong local opposition that it was scrapped. For five years it remained empty, until last year when Governor Lamar Alexander commissioned a task force to study possible uses for the white elephant. That task force has recommended a dozen or more possibe uses for the building. In Vermont, a prison was converted into low cost housing. In both cases, necessity spawned creativity and creativity led to solutions.

On October 11, 1979, the West Virginia Advisory Committee to the U.S. Commission on Civil Rights testified before the House Judiciary Subcommittee on Courts, Civil Liberties and the Administration of Justice concerning the Alderson Federal Correctional Institution. The Advisory Committee had studied the prison for five years and concluded that it must be closed. In their testimony (attached) they addressed problems relating to substandard health

care, educational and vocatioanl training programs, legal assistance, equal employment opportunities and recruitment of minority staff, and separation of inmates from their children, other family members, and their communities. They found each of these problems to be substantial and pervasive, and they traced each to one cause: geographical isolation.

"Rehabilitation does not happen in a vacuum," they wrote, "even though the vacuum in this case may be splendidly shaped by the mountains of West Virginia. In view of the sheer isolation factor, even the best staff would never be enough."

If you substitute "the Adirondacks" for "the mountains of West Virginia," the indictment becomes even more persuasive. At present, Alderson, West Virginia is the most remote site of all the Bureau's facilities. That dubious distinction will be relinquished if Lake Placid is opened.

But it does not have to be opened. You have the very real power to prevent what are clearly predictable--and avoidable--consequences. Simply by deleting the $6 million line item for Lake Placid, or postponing the appropriation, you can prevent an enormous human tragedy from happening. For the one certain thing the West Virginia Advisory Committee to the Civil Rights Commission learned in its five-year struggle to close Alderson is that it is far more difficult to close an existing facility than it is to keep one from opening in the first place.

Are we condemned to repeat the mistakes of the past, as the philosopher Santayana said, simply because we have failed to learn from them? In a very real sense, that is up to you. As the Reverend William Sloane Coffin said to House Judiciary Subcommittee Chairman Robert Kastenmeier:

"What troubles me is that when everybody admits that it is a mistake--the Director of Prisons says it was a mistake, you say it was a mistake, probably individual members of Congress now that they think about it say it's a mistake--I have a hard time understanding why a mistake can't be stopped."

Please stop it. One Attica is too many.

Thank you.

National Moratorium on Prison Construction

324 C STREET, S.E. • WASHINGTON, D. C. 20003 • TELEPHONE: (202) 547-3633

Coordinators: Andy Hall and Michael A. Kroll

January 9,1980

MEMORANDUM

To: Andy, Naneen, Office files
From: Steve
Re: Status of Federal Prison Construction

Under Construction or In Process of Acquisition
(all necessary monies appropriated)

Facility	Cost (mil. $)	Capacity	Scheduled Opening Date
Northeast: *			
Danbury, CT	1.0	114	6/81
Lake Placid, NY	26.0	500	10/80
Otisville, NY	23.2	450 + 100 (camp)	5/80
Midwest: *			
Sandstone, MN	1.9	95	8/81
South: *			
Texarkana, TX	0.9	122	10/80
La Tuna, TX	1.5	60	12/80
West: *			
El Reno, OK	1.2	123	11/80
Leavenworth camp, KS	0.2	71	4/80
Madera, CA 1/	---	250	4/80
Phoenix, AZ	15.9	300	10/82
Tucson, AZ	2.7	200	4/81

* Division of country by region is by the NMPC division of responsibility.

1/ Madera, Cal. appeared on the General Service Administration's surplus property list. It is a former Air Force Base, with dormitories; it required no appropriations to turn it into a prison. Thus the FBOP is planning to occupy it this spring. (Phone Call with Jim Webster, Facility Planning, Federal Bureau of Prisons.)

Other Facilities - FBOP's Once (and Future???) Plans

Northeast Youth (500 beds) - requested in FY 78 Budget, request deferred by Congress. FBOP professes no plans to renew the request.

Other Possible Facilities

Detroit M.C.C. (380 beds) - funds for construction appropriated in FY 77 & 78 ($16.6 million), FBOP Decision not to build made in mid-1979, followed by a decision to reopen consideration of the possibility of constructing the Detroit M.C.C. if shown to be warranted by numbers of federal pre-trial detainees (the latter widely interpreted as a political move by Carter to mollify Detroit Mayor Coleman Young; the judgment is that the statistics will never show that an MCC there is warranted.)
Final decision by OMB not to build. 1/30/79

West Coast Camp (100 beds) and West Coast Adult Prison (500 beds) - Advance planning funds approved in FY 77 budget, FBOP request in FY 79 budget deferred by Judiciary and Appropriations committees. FBOP professes no further plans.

South Central Adult Prison (500 beds) and South Central Camp (100 beds) - Advance planning funds approved in FY 77 budget. FBOP professes, however, no plans to build this prison at present.

Los Angeles M.C.C. (500 beds) - never directly requested by FBOP. Planning funds authorized in FY 79 & 80 budgets, but never appropriated.

Fort Dix Stockade (400 beds) - avidly sought by BOP as the only military facility in the Northeast U.S. which could help them meet their "Needs." The Army is currently engaged in an impact study of the conversion of Fort Dix and two or three other military facilities which could take two years. Thus the Bureau has no immediate prospects of getting its wish.

Camarillo Youth Prison (500 beds) - funds approved in FY 78 budget, decision not to build made December, 1979.

New Prisons opened in 1979

Talladega, Alabama - 500 beds - opened in September.

New housing units opened in Miami (100 beds) and Petersburg, Va. (60 beds.)

Projected Closures of Federal Prisons

McNeil Island, Wash. - the FBOP says that it plans to close this prison in October, 1980, ahead of the Jan. 1, 1982 closure date required by Congress.

Atlanta, Ga. - FY 80 authorization requires FBOP to develop a plan to close this prison on or before Jan. 1, 1984.

Leavenworth, Ks. - FY 80 authorization requires FBOP to change Leavenworth into a "modern correctional facility of no more than 500 beds" by 1985.

UNITED STATES COMMISSION ON CIVIL RIGHTS

MID-ATLANTIC REGIONAL OFFICE
2120 L STREET, NW - ROOM 510
WASHINGTON, D.C. 20037
TELEPHONE: (202) 254-6717

Testimony Offered by
DONALD L. PITTS, Chairperson
Alderson Task Force
West Virginia Advisory Committee
U.S. Commission on Civil Rights

Before the House Subcommittee on
Courts, Civil Liberties and the
Administration of Justice
ROBERT W. KASTENMEIER, Chairman

October 11, 1979
Room 2226
Rayburn House Office Building
Washington, D.C. 20515

Mr. Chairman, Members of the House Subcommittee, and Friends. We West Virginians call our State "Wild and Wonderful." "Almost Heaven," as even outsiders sing of it. Certainly those of us on the West Virginia Advisory Committee take pride in the virtues of our state and hope that its rural character may refreshen and soothe all who pass through or stay.

But reliance on the natural solitude of West Virginia to cut off the women inmates of Alderson from their children, their families, their friends, and the services they need to restore them to society--such reliance turns what West Virginia has to offer into a mockery that must be ended. Help close the Federal Correctional Institution at Alderson. Let me tell you why.

My name is Donald L. Pitts. I am a resident and practicing attorney in Beckley, West Virginia and the Chairperson of the Alderson Task Force of the West Virginia Advisory Committee to the U.S. Commission on Civil Rights. The 51 Advisory Committees throughout the country are bipartisan, composed of men and women of diverse backgrounds, representing all parts of their state, and they advise the Commission on state-level and community issues in civil rights.

Five years ago, I was one of the Advisory Committee members who visited FCI/Alderson. Assisted by Commission staff, we made five visits, and in August 1975 issued a brief document which is referred to in the attached Statement submitted for the record. Afterwards, though our Advisory Committee turned its full attention to other issues of civil rights around our State, we remained concerned about conditions at Alderson.

Then, in August 1978, we became alarmed by allegations concerning treatment of inmates in Davis Hall--which contained the only maximum security unit for women in the Federal system at that time--and about the health care offered at the institution. A year ago this month, three other Committee members and I were assigned to revisit Alderson: Betty A. Hamilton of Charleston, who was also then the Honorary Chairperson of the National Association of Mental Health; Howard D. Kenney of St. Albans, the Executive Director of the West Virginia Human Rights Commission; and Charlene C. Pryor, a resident of Beckley like myself, where she is an officer of the local chapter of the National Organization for Women.

Among ourselves, we have short-titled our Statement, "Alderson Revisited." It capsules the record of our visits and contains information we collected or that was sent to us by concerned specialists who have been interested in the subject. But the shortened title carries additional meaning for us, because this time, after the issuance of our Statement, we feel it important not to wait another three years before returning. Though less frequently than during the past year, the Task Force expects to continue visiting Alderson until the Federal Correctional Institution is closed.

And we hope that, like the Task Force and our parent Advisory Committee, your House Subcommittee will see the necessity for closing that Institution as soon as closure can be managed.

During the course of your hearings yesterday and today, you have heard reference to problems at Alderson or similarly affecting Alderson. The problems we singled out in our attached Statement relate to health care; educational and vocational training programs, especially for long termers; legal assistance; equal employment opportunities to help improve the composition of staff and better reflect the racial and urban composition of the women entrusted to their custody; and the separation of the women from their children, other family members, and their communities.

Our feeling is that the routine separation of prisoners from society, which is one result of incarceration, is pushed to a needless and harmful extreme in the case of FCI/Alderson. During your Subcommittee's hearings on March 23, 1979, former Attorney General Ramsey Clark testified that FCI/Alderson is the most remote of all the Federal Correctional Institutions. Without

bus or plane service and with virtually no public overnight accomodations, the location of the town of Alderson places an intolerable burden on those who wish to visit, especially on the families of female offenders, since, like female offenders elsewhere, the women themselves are in large measure from low-income and minority backgrounds.

As if that burden were not enough, it appears even less justifiable with regards to those women from the District of Columbia who are not Federal code offenders. These female D.C. code offenders are sent over 250 miles away from Washington, while most male D.C. code offenders may be assigned no farther away than to nearby Lorton, Virginia. Moreover, while the men may remain under the D.C. parole system, the female D.C. code offenders at Alderson then come under what some consider a less congenial Federal parole system.

Though the literature on the problems of female offenders is small, compared to what has been written primarily about male offenders, sufficient evidence exists through testimony you have been taking and through already available studies which corroborate our judgment that the Federal Correctional Institution at Alderson must be closed.

For those women who should remain incarcerated, allow them to be held in facilities closer to their home communities where family and friends are closeby, and where services in the area of health, law, education, and job training are far more abundant than in the tiny town of Alderson, whose 1970 population was 1,278 inhabitants, and the surrounding rural counties.

During the course of our recent series of visits, we have met the Warden, his Associate Wardens, and many of their staff. Although we have differed with them on occasion, we have also benefited from their cooperation, their experience, and their own concerns for the welfare of the inmates. If FCI/Alderson is not as troubled as may be other prisons throughout the country, it is much to the credit of some good and dedicated staff. But in view of the sheer isolation factor, which has manifold negative consequences for several important issues we looked into, even the best staff would never be enough.

Thus, we urge you to join with us in calling for the closing of FCI/Alderson. Place all the minimum security inmates in as many non-incarcerative settings as possible. Distribute the rest among facilities closer to their communities, particularly the D.C. code offenders.

Rehabilitation does not happen in a vacuum, even though the vacuum in this case may be splendidly shaped by the mountains of West Virginia. If the women are to be restored to society, it will best happen in and through their home communities. Thank you.

[Following this introduction, the body of the testimony discussed these issues:

1). closing of the maximum security unit;
2). physical health care and follow-up;
3). utilization of medical externs;
4). forced drugging and required reading complaints;
5). facilities and medical equipment;
6). medical personnel changes;
7). federally supported state planning;
8). educational/vocational programs for long-termers;
9). legal resources and assistance;
10). nutrition complaints and bilingual needs;
and 11). deficiencies in equal employment opportunity.

Then, at the bootom of page 9, the testimony focuses in on the problems caused or exacerbated by remoteness. We reproduce that portion of the testimony in its entirety:]

Administration Minimizes Remoteness as Problem

Nevertheless, especially in terms of minority representation in the workforce, the administration as well as an equal opportunity counselor agreed that a large share of the difficulty in recruiting staff--especially minority professionals trained or working in urban settings--stems from the geographic location of FCI/Alderson. Apart from the field of corrections, Advisory Committee members have witnessed this phenomena in the recruitment of minorities for their schools, public safety departments, and other

governmental institutions in even the larger West Virginia cities and the more populated counties which are home to Committee members.

At the close of its televised June 27th visit and interviews, the Task Force emphasized its impression that the physical isolation of FCI/Alderson is the single major factor bearing directly on many of the problems there, including staff recruitment. Yet one key official responded that isolation is not a problem. Indeed, he indicated that his own employment at FCI/Alderson supported his contention.

The equal employment opportunity issue has been cited last, not because it is the least of the problems at FCI/Alderson, but because it is one of the problems most vividly mirroring the effects that isolation has on the institution. If it is difficult to attract and hold qualified specialists, such as a psychiatrist, to move to Alderson and serve the women inmates at the institution, it remains even more difficult to attract a psychiatrist who might be from the black community or some other minority group--not to speak of the difficulty in attracting a female psychiatrist from a minority group. Or many minority female correctional officers. Or many minority females for any of the other positions staffing the institution.

Other Effects of Remoteness

Set off in rural West Virginia, the tiny town of Alderson contains 1,146 whites and 132 blacks, as reported in the 1970 census. Unserved by planes or buses, it scarcely figures as the multicultural community to which skilled blacks or Hispanics, male or female, can be expected to immigrate.

Its setting, splendid though the rolling mountains of West Virginia render it, sustains little in the way of private businesses or industries, large or small, which can provide sufficient and varied training opportunities for short termers who may be eligible for them, or for the long termers who struggle to become eligible. In fact, the dominant industry in Alderson is corrections at the Federal Correctional Institution there. As a consequence it comes as little surprise that a retired FCI/Alderson employee was elected last spring to be Mayor of the town of Alderson.

Thus, unlike in the megalopolises or big cities from which so many of the inmates are derived, Alderson does not lie within easy distance of the universities that nurture service institutions like hospitals, law clinics, or social work schools with faculties and interns eager to serve and to learn. Ironically, though remarkably campus-like in appearance, FCI/Alderson suffers from actually being the most distant in terms of access to true campuses with their attendant learning, cultural, and service resources.

During the March 23, 1979 session of hearings held by the House Subcommittee on Courts, Civil Liberties, and the Administration of Justice--focussing on plans to transform the Lake Placid 1980 Olympic Village into a Federal correctional institution--a former eminent Federal official testified. Former Attorney General Ramsey Clark, who once directed the Department of Justice and thereby the Bureau of Prisons under it, pointed out that FCI/Alderson is the most remote correctional institution of the 22 in the entire Federal system. 15/ No wonder if, after female offenders are assigned there, they find themselves at the end of the correctional road.

Travel Ordeal for Visitors

The Task Force has come into contact with scores of persons having business at FCI/Alderson. All agree about the ordeal one goes through to visit it. Only last spring did the night trains, passing through Alderson enroute between Chicago and Washington, begin to make passenger stops there. Were all passenger service to be halted in West Virginia, as earlier proposed by U.S. Department of Transportation, even this mode of access will agai ish.

But in whatever way one arrives, no motels or other public overnight a dations are available. If the trip is burdensome for those with a profe sional interest in corrections, consider the burden on those whose interest is personal, because mother, daughter, wife, or friend is there. And, since women offenders are predominantly minority and/or poor, the hardship on families and circle of friends who seek to visit them is intensified.

However, when the Task Force posed this observation to the administration, one key official replied that some statistics show that the rate of visits for FCI/Alderson is no worse than it is for similar FCIs in the system. To which the Task Force responds: how much better might the rate of visits be, were it not for the travel barriers to Alderson.

Burden on Mothers and Children

And what of the children? "It is cruel and inhuman punishment not to make it more possible for prisoners to see their children . . . ," wrote Dorothy Day in her July-August 1976 column, "On Pilgrimage: Alderson, West Virginia." 16/ In response to that message from the veteran activist, who decades ago gave birth to a continuing workers movement, the Alderson Hospitality House was founded in November 1976.

Run by a volunteer collective through donations, it was set up in large measure to offer food and shelter to those visiting FCI/Alderson inmates. And the May 1979 issue of Judgment, the Alderson Hospitality House newsletter, features a lengthy review of Why Punish the Children? A Study of Children of Women Prisoners which definitively depicts the harm inflicted on both the mothers and their children. 17/

Even the FCI/Alderson administration has etimated that 50 percent of the inmates there are mothers, 18/ while a social worker, who authored a profile of FCI/Alderson inmates, put the figure at 60 percent during the Task Force's interview with her. Why Punish the Children? substantiates the plight of mothers and children separated through incarceration. And that separation reaches the greatest degree of geographic finality at FCI/Alderson, unfortunately worthy of acknowledgement as the most remote.

Priority Recommendations of Task Force and Committee

For such reasons--while every effort must be exerted to correct the deficiencies associated with the complaints sketched on page 3 to page 8 above --the Task Force urges first: That the U.S. Commission on Civil Rights and other responsible Federal authorities take all steps to *achieve the timely phasing out of FCI/Alderson.* And, second: That the Commission and other responsible Federal authorities ensure that *FCI/Alderson inmates, who must*

remain incarcerated, be housed in settings closer to their home communities.

The Task Force and its parent Advisory Committee makes the first recommendation mindful that past efforts to close down some antiquated Federal prisons have only resulted in the maintenance of the old and the opening of new prisons. 19/ In the face of the multiple systemic problems derived from FCI/Alderson's isolated location, stand-still 'progress,' or a repetition of such past occurences simply leading to a proliferation of prisons, must be safeguarded against.

(As to the logical question of whether additional cells are needed by the Bureau of Prisons due to any increase in the general number of crimes committed by women in recent years, it is well to stress that information supplied to the Task Force during its visits indicate that the number of inmates is significantly *declining* at FCI/Alderson. Of course, the decline may not reasonably be assumed to continue indefinitely. But, whereas there were 620 inmates at FCI/Alderson in March 1978 and just over 500 in November 1978, the number dropped to 450 in March 1979, and fell to exactly 391 on June 12, 1979. If new prisons are needed, it cannot be argued from any growth in the population assigned and confined to FCI/Alderson.)

Because the humanitarian and restorative effects of strengthening community ties for inmates are already becoming better appreciated, the Task Force concludes by turning to a special problem at FCI/Alderson. It, too, may become more easily remedied, if the two priority recommendations by the Task Force and its parent Advisory Committee are implemented.

APPENDIX

Inmate Race Data

9/30/78 507 (Given as "Grand Total" in September 30, 1978 printout)

White	Black	Hispanic	Native Amer., Asian, Other
26%*	73%*	Not avail.	0.9%*

2/3/75 474 (Given as "Residents" in February 3, 1975 "Population Profile")

White	Black	Hispanic	Native Amer., Asian, Other
27%	56%	15%	2%

EEO Data and Minority Representation

3/30/78 207 ("Full-time GS Employment" in Fiscal Year 1979 Equal Employment Opportunity Plan)

White	Black	Hispanic	Native Amer., Asian, Other
80%	19%	1%	-

2/3/75 254 (Given as "Staff" in Table 9 of February 3, 1975 "Population Profile")

White	Black	Hispanic	Native Amer., Asian, Other
82%	17%	0.3%	-

EEO Data and Female Representation

3/30/78 207 ("Full-time GS Employment" from GS-3 to GS-15, the only grade levels shown in Fiscal Year 1979 Equal Employment Opportunity Plan)

Of the total fulltime employees, 64 percent, or 132, are women.

But women are 56 percent of the 18 employees in the bottom three grade levels and only 33 percent of the 9 employees in the top three grade levels.

* Indicates percent of 412 inmates reported by race.

APPENDIX
(Continued)

Bar Chart of Inmate Race Data as compared with Bar Chart of EEO Race Data:

9/30/78 Inmate Race Data

//////////////	- 26%	White
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX	- 73%	Black
I	- 0.9%	Nat. Amer., Asian, Other

3/30/78 EEO Race Data

//	80%	White
XXXXXXXXXX	19%	Black
I	1%	Nat. Amer., Asian, Other

2/3/75 Inmate Race Data

//////////////	- 27%	White
XXXXXXXXXXXXXXXXXXXXXXXXXXXX	- 56%	Black
HHHHHHH	- 15%	Hispanic
I	- 2%	Nat. Amer., Asian, Other

2/3/75 EEO Race Data

//	82%	White
XXXXXXXX	17%	Black
I	0.3%	Nat. Amer., Asian, Other

Inmate Population by State of Legal Residence (Selected states only)

In terms of inmate population by state of legal residence, in 1975, approximately 32 percent of the total inmate population came from California, Illinois, Michigan, New York State, and the District of Columbia (which close to doubled the number of inmates assigned from any of the states.) In 1978, approximately 40 percent of the total inmate population came from those jurisdictions (with the District of Columbia more than doubling the number of inmates assigned from any of the states.)

On the other hand, in 1975, only 1.2 percent came from West Virginia, and in 1978, only 1.4 percent.

The New York Times

SATURDAY, JANUARY 13, 1979

Playing Games With Prisons

When the United States Olympic Committee sought Federal funds to build a dormitory for the 1980 Winter Olympics at Lake Placid, N.Y., Congress required that the facility be put to some suitable use after the games were over. Along came the Federal Bureau of Prisons, in search of a site for a new prison in the Northeast. The result: Congress voted $22 million to build the dormitory; after 1980, it is to become a medium-security prison for 500 inmates. That is fine for the Winter Olympics, but it is poor corrections policy.

Norman Carlson, director of the Bureau of Prisons, believes, like other corrections experts, that "Modern prisons should be built near a large urban center where facilities are available to meet the needs of staff and inmates alike." The needs of inmates include accessibility for their families; they are often poor and travel is burdensome. In 1975, when Mr. Carlson testified about the Federal prison now being built in Otisville, N. Y., then-Congressman Herman Badillo was moved to describe it as "really the other end of the world." Otisville is only 75 miles from New York City.

The Lake Placid prison would be 300 miles away. Most inmates would have come from such cities as New York, Boston and Philadelphia. The difficulty of reaching the prison by public transportation would discourage family visits; that in turn would affect morale; and that would affect rehabilitation programs. Lake Placid, in an area of high unemployment, welcomes the promise of 200 jobs. But it lacks the medical, diagnostic, training and educational services that a large prison requires.

Why, then, did the Bureau of Prisons agree to the deal? Largely because it needs a new prison in the region but has had difficulty finding a community that would not fight it. Mr. Carlson would try to mitigate the isolation by moving to the new facility some 250 convicts originally from the Northeast but now in Federal prisons even farther from their homes. Still, it seems to us that Mr. Carlson compromised too readily. There are preferable sites in or near New York City. For example, New York State, concerned about the distance and isolation problems for prisoners from the city, is buying facilities on Rikers Island to be used as a penitentiary. Other space there might well serve the Federal requirements. The city also owns a growing number of well-equipped but now-surplus schools and hospitals that Mayor Koch would no doubt be delighted to sell.

As for Lake Placid, it would be a sensible site for the permanent winter sports training camp long sought by the United States Olympic Committee. New York City would be the more sensible site for the prison.

OAKLAND TRIBUNE
November 1978

Vernon E. Jordan

A mockery of the Olympic spirit

Relatively few Americans are aware that, under the guise of building housing for athletes participating in the 1980 Olympic Winter Games, the United States is building a prison.

Construction is under way on the prison right now, but it is not too late to change the intended use of the facility. The athletes will be there for a few weeks, but after they leave plans call for their rooms to be converted to cells that will hold poor, largely minority offenders from inner cities.



Vernon E. Jordan Jr.

In itself, this is a mockery of the Olympic spirit. Just think what our reaction would be if Russia planned a similar conversion of Olympic facilities. Here's another instance in which our verbal backing for human rights is contradicted by actual practice.

Not only is that prison the wrong facility in the wrong place at the wrong time, but it is in violation of the U.S. Bureau of Prison's own guidelines. The origin of the prison lies in Congress' mandate that any facilities built for the Olympic games be convertible to other use.

It has been suggested that the Lake Placid, N.Y., facility could serve as a permanent training site for athletes.

But that idea gave way to another one — turn it into a prison. There are two major reasons for this. First, the region around Lake Placid is economically distressed, and a permanent prison would open up well-paying jobs for prison guards and other workers while boosting the town's economy.

The Prison Bureau admits that most of the inmates will come from big cities in the Northeast — New York, Boston, Philadelphia and others. And it also admits that its own regulations stipulate that prisons be built near major population centers to enable family visits and to utilize nearby supportive services.

Located more than 300 miles from major cities and serviced by only one bus a day from the city, the Lake Placid site effectively means inmates will be cut off from their loved ones.

In addition, a large portion of the inmate population is expected to be black and Hispanic while the local population and the guards drawn from the region will be rural whites. This introduces a racial factor that has resulted in earlier prison tragedies — friction between guards and inmates who don't understand each other and the inevitable surfacing of racism.

The Olympic prison is just the tip of the iceberg — visible because of the Olympic connection and the gross violation of a federal agency's own rules. But the problem is nationwide. Politically inspired calls for getting tough with offenders have led to longer sentences and the adoption of determinate sentencing.

The cost of this vast network of schools for crime is enormous. About 500 new or expanded facilities are being planned. The tab will be $4 billion. With all the calls for budget-cutting and slicing social services, there's been little outcry over the mind-boggling sum required to warehouse poor people in penitentiaries.

Proportionately, we've got more people under lock and key in the United States than anywhere in the Western world, outside of South Africa. Except for a minority of inmates who are violent and thus dangerous to themselves and to others, offenders can be better handled by a variety of methods other than incarceration. The sooner we get off our prison-bulding mania and start dealing with the causes of crime, the better off we'll be.

Assembly Republican Leader JAMES L. EMERY

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For Release:
Immediate

Olympics 3-13-80

Assembly Republican Leader James L. Emery today proposed creation of a State University of New York-National Winter Olympic Training Center at Lake Placid, utilizing the facilities constructed for the XIII Winter Olympic Games.

"The facilities at Lake Placid can provide the potential for many young American amateur athletes to train for the national and international competitions that are the prelude to the 1984 Winter Games," Emery said. "However, without proper organization and administration of the facilities, the number of athletes able to take advantage of this national resource would be severely limited. Furthermore, the location of the Lake Placid facilities makes it difficult for a young American athlete to both train and simultaneously pursue a college education.

"I propose that the sports facilities at Lake Placid be officially designated by Congress and the U.S. Olympic Committee as the 'Lake Placid National Winter Olympic Training Center.' A Training Center Commission, composed of appropriate local, state and federal representatives and funded by the federal government, would be responsible for insuring that the needs of the proposed SUNY Campus and the needs of the Village of Lake Placid are being served. It would also be the duty of the commission to contract for the management of the sports facilities, promote the use of the facilities and cooperate with other concerned governmental agencies.

Under the Emery plan, a number of currently vacant or under-utilized facilities could be used as the site of the SUNY Lake Placid satellite campus.

The SUNY Lake Placid Campus would offer a range of arts and sciences credit courses that would allow athletes attending public and independent colleges throughout the country to spend the winter months training and competing while still progressing toward their degree requirements. Special educational programs for outstanding high school-aged athletes could be provided with the cooperation of the Lake Placid public schools.

The Lake Placid facilities would also provide a "sports medicine laboratory" for SUNY's medical centers and health science programs.

Emery also noted that a number of improvements were made at the Plattsburgh SUNY Campus only 56 miles from Lake Placid to make track and field facilities there suitable as a training camp for U.S. team members at the 1976 summer games. He said the proximity of the Plattsburgh campus would mean that the SUNY Lake Placid facility could offer meaningful programs year-round.

"Academic qualifications would be just as important as athletic prowess in selection of athletes to participate in the Lake Placid SUNY program," Emery said. "These facilities would be operated in the very best tradition of American amateur collegiate and high school athletics."

Emery summarized the following potential benefits of his proposal:

National Benefits

--Federal recognition of and support for winter amateur sports in this country would be increased.

--Amateur athletes would be afforded an expanded opportunity to participate in and utilize the Lake Placid facilities.

--Financial support would be channeled through existing financing formulas for primary, secondary and higher education programs.

State Benefits

--Recognition of Lake Placid as the site of the National Winter Olympic Traning Center would increase the state's commercial and tourism drawing power.

--Federal involvement would reduce the potential need for state and local subsidies of the Lake Placid economy.

Local Benefits

--Additional use of the winter facilities would defray the local operating and maintenance expenses.

--Development of a campus for perhaps as many as 500 students would provide local employment opportunities.

--Utilization of current public school facilities would be increased.

--Tourism marketability of the area would be enhanced.

Emery concluded, "More and more, people are beginning to realize that not only is it unfair to ask the citizens of Lake Placid to pay for the cost of operating and maintaining the Olympic facilities from their own property tax revenues, but that the winter sports complex should be dedicated to preparing future winter athletes to represent our nation."

Emery said he had sent letters to the New York Congressional delegation, President Carter, Governor Carey, SUNY Chancellor Wharton, state legislative leaders, and officers of the U.S. Olympic Committee and Lake Placid Olympic Organizing Committee urging their support for his proposal.

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Mr. KROLL. My name is Michael Kroll. I am coordinator for the Washington office on the National Moratorium on Prison Construction.

Unlike many witnesses and organizations coming before this committee and lobbying for a particular appropriation, I am lobbying against a particular appropriation. Specifically, I am asking that the request for $6 million to operate the Olympic Prison be deferred for at least one year until the need for the facility can be established.

There are a number of reasons why this committee should not provide the funds to operate the Olympic Prison, but I think the most convincing are the following: First by not granting this request for $6 million or by postponing it for one year, you immediately reduce the budget for fiscal year 1981 when the taxpayers are demanding that the budget be reduced to the bone. And while $6 million is a relatively small amount in the overall look at the budget, the long-term savings are enormous. The National Council on Crime and Delinquency has calculated that the cumulative cost of operating the Olympic Prison over a 40-year period would exceed $5 billion.

Second, although a strong case was made before this committee back in 1977 for Olympic athlete housing, no case was ever made for a prison in Lake Placid. I have attached Mr. Carlson's testimony to this committee at that time to substantiate that claim.

The need for another 500-bed facility at this time is even weaker than it was in 1977. For the first time in many, many years the Bureau of Prisons has a population which is under its capacity. There has been a 23 percent decline in the federal prison population over the past 2½ years and that decline shows every indication of continuing.

Construction which is already in the pipeline, already funded by the Congress and underway, will add a total of 1,785 new beds to the federal prison system over the next three years, including 664 beds in the northeast alone where the need is said to be the greatest. This certain expansion of almost 2,000 beds does not count either the 500-bed Lake Placid facility or the other 500 beds requested in this budgetary submission.

Third, even if the Bureau of Prisons could justify the Olympic Prison on some rational need basis, I would still be asking this committee not to fund it. Its location, more than 300 miles from any major urban center, makes it the worst possible place for a prison. Even Norman Carlson concedes this. Deputy Attorney General Charles Renfrew made this point best when he said "I believe the emphasis should be on work release, study release, home furloughs and community treatment centers. This means that our institutions have to be located in or near the area from which the inmates have come. We need to strengthen the ties of the inmate to his family and this, I think, should be taken into account in the location of our prisons."

Finally, I ask this committee to endorse the dissenting views of your own colleagues, Congressman Early of Massachusetts and former Congresswoman Yvonne Burke of California, who wrote in 1977:

What is troublesome about the proposal is the lack of documented planning or a record of public discussion concerning either the intended uses or site location. The disadvantages of this facility in this location for the intended use far outweigh the immediate convenient short-term benefits. The decision to utilize the facility as a youth detention center should be deferred until the entire planning process has been made public and reviewed by the appropriate congressional committees. The Lake Placid facility should be deferred until all of the ramifications of locating the facility at Lake Placid are considered.

Those ramifications have still never been considered. As with some of the greatest opinions of the Supreme Court, the views of your colleagues in dissent should become the majority opinion of this subcommittee.

To close with the words of Reverend William Sloane Coffin when he was testifying before House Judiciary Committee Chairman Kastenmeier, he said:

What troubles me is that when everybody admits it was a mistake, The Director of Prisons, you say it was a mistake, probably individual Members of Congress, now that they think about it, also say it was a mistake, I have a hard time understanding why a mistake can't be stopped.

I am imploring the committee today to stop that mistake. One Attica is certainly one too many.

I also suggest, Mr. Chairman, that over the course of the last three years thousands of letters have poured into Congressman Kastenmeier's office. His office tells me they have received more letters on that subject than any other criminal justice subject in his tenure on the Hill. Perhaps this subcommittee should request those letters to see the depth and breadth of the opposition to this prison.

Thank you.

Mr. HIGHTOWER. Mr. Kroll, you and your organization are not just opposed to building a prison at the Olympic site at Lake Placid. You are just opposed to building prisons, aren't you?

Mr. KROLL. The purpose of the National Moratorium on Prison Construction is to stop the expansion of prisons. That is to say where a prison is built with a net reduction in bed space, we would not oppose it; but where a prison is built with an expansion, we would oppose it.

In this particular budgetary submission, the Bureau of Prisons is asking for money to operate 500 beds at Lake Placid, New York, another 500 beds in California: 125 beds in Boron California, and 375 at Madera, California. We are not opposing the 500-bed increase in California. We are specifically focusing our attention on the 500-bed increase at Lake Placid because it cannot be justified on any standard at all that we have been able to determine.

Mr. HIGHTOWER. Well, if there is valid reason for different points of view do you think that overcrowding is more desirable than new facilities?

Mr. KROLL. Well, I think that overcrowding can be solved in at least two different ways. One is by the traditional attempt to build new prisons to relieve overcrowding. Although, if you look back through the Department of Justice over the last 40 years, which is how long the Bureau of Prisons has been in existence, you will see that each year overcrowding is the justification for building new prisons; and the following year the Justice Department comes back and says the anticipated increase did not meet the actual increase

and therefore we need more prisons. So that has not worked as a way of reducing overcrowding.

So I think there are other ways of reducing overcrowding. What I point out is that for the first time that argument is not relevant to this discussion inasmuch as the Bureau of Prisons is not overcrowded. It is 2½ percent under capacity and it already has 2,000 beds in the pipeline. So I don't think overcrowding is relevant.

Mr. HIGHTOWER. Do you think that they should wait until a bad situation becomes intolerable before they start planning ahead? Would you advocate no further future planning? We can't wait until someone is knocking on the door to build a facility to put them in.

Mr. KROLL. What I am saying, Mr. Chairman, is that all the future planning that I have read, and I have read the entire record year after year, I have seen each year's projections contradicted in the next year's testimony and new projections proposed and then contradicted the following year, over and over. That pattern has never changed.

Mr. HIGHTOWER. They are not contradicted because of a lessening of the requirement. But the contradiction is because they have not planned big enough, generally.

Mr. KROLL. That is generally true, but that seems to me to underscore the theoretical foundation of the Moratorium, that as long as you provide space it will be filled. Historically that has always been its case. In this case I think we don't need so much to get into that theoretical discussion since, as I show, the Bureau's population has declined by 23 percent and every indicator shows it is going to continue to decline.

Mr. HIGHTOWER. Do you think crime is on the way out in this nation?

Mr. KROLL. There is very little relationship between rates of crime and rates of imprisonment. No, I don't think crime is on the way out. I think we are talking about two separate systems of imprisonment, federal and state.

State prison systems are growing at an unprecedented rate. Almost all the crimes that you are talking about are in those state systems.

Federal prison populations are declining at an unprecedented rate while new bed space is being added at an unprecedented rate.

It seems to me two opposite things are going on which is going to make a tremendously large increase in capacity while there is a tremendous diminution in population in the federal system.

I am not addressing myself to the state system. If I did, I would be talking much more theoretically and I would be glad to engage you in a theoretical debate because I believe in the theory. But I don't think it is necessary because these statistics show that this bed space is not needed even on a projected basis.

62-321 O - 80 - 10

Mr. HIGHTOWER. Mr. Kroll, thank you very much. We appreciate your testimony here today.

TUESDAY, APRIL 1, 1980.

BUREAU OF THE CENSUS

WITNESSES

ROBERT PARKE, POPULATION ASSOCIATION OF AMERICA
CONRAD TAEUBER, AMERICAN SOCIOLOGICAL ASSOCIATION

Mr. HIGHTOWER. We are happy to have Mr. Robert Parke and Dr. Conrad Taeuber. Do you have a prepared statement?

Dr. TAEUBER. I do, Mr. Chairman.

Mr. HIGHTOWER. The prepared statement will be inserted in the record at this point. We will be happy to hear from you in any way you want to proceed.

[Dr. Taeuber's prepared statement follows:]

Testimony of Dr. Conrad Taeuber of

Georgetown University

Submitted to the Subcommittee on State, Justice, Commerce, Judicary, and Related Agencies of the House Committee on Appropriations.

April 1, 1980

Mr. Chairman:

My name is Conrad Taeuber, I am a member of the staff of the Center for Population Research in the Kennedy Institute of Ethics at Georgetown University. Prior to 1973 I was ar employee of the Bureau of the Census. Since that time I have, on occasion, provided some advisory services to that Bureau. I am appearing on behalf of the American Sociological Association to request that the Committee consider inserting in the appropriation for the Census Bureau a sum adequate to carry out needed preparatory work for the middecade census to be taken, in accordance with the law, in 1985. The President's Budget did not include any funds for this purpose.

In March 1976, Congresswoman Mrs. Schroeder reporting for the Committee on Post Office and Civil Service, called upon the House to approve the legislation providing for a middecade Census. In that report he pointed out the matter had been under study in five preceding sessions of the Congress, and stated that sufficient time and study had been devoted to it.

I would like to quote from the Committee report: "It is important to know current national population developments. The historic method of counting the population every ten years does not meet the Nation's current needs."

"Census data rapidly loses its relevance and usefulness soon after it is gathered. Despite this deficiency, 1970 census statistics will be the only data officially available until 1981. Many statistical users, including Federal agencies, have initiated supplementary surveys of questionable reliability to update statistics because they recognize the 1970 data are already out of date. For the most part, however, the Government must depend on outdated information to make important legislative and administrative decisions for example, 103 Federal grant-in-aid programs now use 'target population' as a factor in their allocation formulas. These population figures are generally based on available statistics (now six years old) or educated guesses based on limited surveys."

"State and local governmental activities are tied directly to changing demographic trends. Since the 1970 census, migration patterns have changed dramatically, but State and local governments (and other users) have insufficient information about these trends to act confidently."

.....

"Less than a complete middecade census would not meet the present need. A survey designed to include only 25 percent of the Nation's population would cost 80 percent of the cost of a full census and the results would not be nearly so useful. Statistics would be incomplete for cities of less than 50,000 population and virtually nonexistent for cities of less than 25,000

population. But such small towns make up 96 percent of the cities and towns in the United States and contain 41 percent of the total population. Moreover, the increasing needs of larger cities for neighborhood data would not be met with a survey." End of quotation.

Mr. Chairman, at this time, on the eve of the 1980 Census, it may seem strange to be arguing about a census to be taken in 1985, but one can confidently predict that without such a Census the Government of the United States and the governments of States, counties, cities and towns will again find themselves in the position as stated by the Committee in 1976 - that is confronted with dramatic changes in the patterns of population growth and migration, and relying on data that are to a large extent out of date. The effective conduct of many of the programs which the Congress has enacted and the ability to deal with new issues that may arise depend in large part on the availability of uptodate reliable information, including the information provided by the Census.

The failure to provide funds for planning the middecade Census program would make it impossible to comply with two provisions which were included in the legislation when the Congress adopted the law calling for a middecade Census. It would significantly reduce the capability of the Bureau of Census, in collaboration with other Federal agencies, to plan for an effective coordinated program of intercensal statistics which the Committee had foreseen as a contribution that could be built around the middecade Census. A census is of necessity a complex undertaking which requires significant lead time. The Congress recognized this and provided that not later than three years before the appropriate census date it is to receive a report showing the subjects to be included and the type of information to be compiled. Obviously if no planning is to be carried forward in fiscal 1981, no such plan can be developed by April 1982, and in the latter half of the 1980s the government and other users of Census data would again find themselves having to operate in many respects on the basis of outdated data.

Thank you, Mr. Chairman.

Mr. PARKE. Mr. Chairman, Dr. Taeuber and I are very pleased to have an opportunity to testify before the committee in support of the reinstatement of planning funds for the mid-decade census for 1985.

Dr. Taeuber will speak first.

Dr. TAEUBER. In my statement, Mr. Chairman, I quote from the report which is made by Congresswoman Schroeder for the Committee on Post Office and Civil Service in March 1976 when she called upon the House to approve the legislation providing for a mid-decade census. She pointed out that the matter had been under study for five years and a great deal of time had been given to it.

In the report she points out that for the most part the government must depend in 1976 on outdated information to make important legislative and administrative decisions. For example, 103 federal grants in aid programs now use target population as a factor in their allocation formulas. These population figures are generally based on available statistics which then were six years old or educated guesses based on limited surveys.

She pointed out that state and local governmental activities are tied directly to changing demographic trends. Between 1976 and 1970 there had been sharp changes in migration patterns, but state and local governments had insufficient information about these trends to act confidentially.

She pointed out further that less than a complete mid-decade census would not meet the present need. A survey designed to include only 25 percent of the nation's population would cost 80 percent of the cost of the new census and the results would not be nearly so useful. Statistics would be incomplete for cities of less than 50,000 population, virtually non-existent for cities of less than 25,000. But these small towns make up 96 percent of the cities and towns in the United States and contain 41 percent of the total population.

Mr. Chairman, if the Bureau of the Census does not have funds available for planning for the mid-decade census, which is now provided for by law, there will again come late in the 1980's the situation that was described in the report of the committee to which I have just drawn attention. Thank you, Mr. Chairman.

STATEMENT OF MR. PARKE

Mr. PARKE. Mr. Chairman, Dr. Taeuber has reviewed the reasons the Congress gave in adopting the plan for a mid-decade census in 1985. For the past two fiscal years, the Administration requested and the Congress voted planning funds for that mid-decade census. This year, however, while the Census Bureau asked for planning funds, OMB denied them. So, the Administration request deletes planning funds for the mid-decade census in 1985.

My point in speaking to you is to urge that this is the wrong year to be buying the assumption of the Administration that we can make do without that census and get by on estimates. That is the thrust of my statement.

The Administration now proposes "to meet the needs through another approach." For such small local areas, the approach of-

fered by the Administration's budget request is "proposed improvements in the intercensal demographic estimates program."

Accepting the Administration's approach means accepting the Administration's assumption that these proposed improvements can be achieved, that somehow demographic estimates will be made to produce acceptable data for small areas.

It is premature, unnecessary and unwise to accept this assumption. The National Academy of Sciences Committee on Population is nearing completion of a study of methods for estimating small area populations. Surely that set of experts should be consulted before the Administration's assurances are accepted. I can tell you that the evidence is not reassuring. The Census Bureau's own figures show that errors of over 10 percent in the population estimates were revealed by special censuses in one third of the 2,000 places that had a special census between 1973 and 1975. That is one community in three with an estimating error of 10 percent or more and that is only three to five years after the 1970 census. The Administration is asking us now to rely on demographic estimates for 10 years.

The Census Bureau has given a great deal of effort to improving population estimates, so it is reasonable to expect such serious estimating errors will occur less frequently. The problem is that we do not know how accurate the estimates are for small areas and we cannot know until we compare them with the results of the 1980 census. We should find out the results of that comparison which the Census Bureau will be making in 1981 before we commit ourselves to reliance on estimates of the population.

If we let the budget stand as the Administration has requested it, we will have no further opportunity to consider the evidence that will come from these comparisons and studies, and we will have no further opportunity to consider what provisions for mid-decade statistics will be necessary to meet the nation's needs.

The bottom line is this: The planning funds should be reinstated in the budget so that the decisions can be made at the proper time when the evidence needed to make them is available.

The choice before the Congress is this: It can countenance termination of planning for the mid-decade census in 1985, and thereby save $2 million in fiscal 1981. Or, it can insist on continued planning and thereby provide the opportunities for the Census Bureau, the Congress, and the nation to develop a well-founded decision regarding the development of population statistics for local areas in the United States on which so many public and private decisions depends. I also have a prepared statement which I would like to submit for the record.

Mr. HIGHTOWER. Your prepared statement will be inserted in the record.

[The statement follows:]

April 2, 1980

Statement of Robert Parke*

to

Subcommittees on State, Justice, Commerce,

Judiciary and Related Agencies,

of the

House and Senate Committees on Appropriations

Hearings on the FY 1981 Budget

April 1, 1980

Mr. Chairman:

I appear before this committee to support continuation of the planning work for the first mid-decade census of the United States, scheduled for 1985. The Administration has omitted from its 1981 budget the funds needed to enable the Census Bureau to continue this planning work. That ommission should not be allowed to stand.

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*Robert Parke is Director of the Social Science Research Council's Center for Coordination of Research on Social Indicators in Washington, DC. From 1970 to 1972 he was Deputy Director of the U.S. Commission on Population Growth and the American Future, and before that he was a demographer at the Census Bureau. He has taught sociology at Brown University and Muhlenberg College. He serves on the Board of Directors of the Population Association of America and on the Committee on Population Statistics of the PAA. He is Chairman of the American Sociological Association's Committee on National Statistics, and Vice Chairman of the Committee of Professional Associations on Federal Statistics. His testimony is presented at the request of the Population Association of America and the American Sociological Association and implies nothing about the views of his employer on these matters.

The action of the Congress in 1976 in approving the mid-decade census in 1985 was based on an extensive review carried out over many years. That review resulted in the conclusion that statistics based on censuses conducted only once every 10 years could no longer meet the nation's needs for timely, accurate information on such local areas as counties, small cities, and villages. A census at mid-decade was the agreed way to meet these needs, after all the available options had been considered.

The Administration, which in past years has requested funds to plan the mid-decade census, now proposes "to meet the needs through another approach." For such small, local areas the approach offered by the Administration's budget request is "proposed improvements in the intercensal demographic estimates program." Accepting this approach means accepting the Administration's assumption that these proposed improvements can be achieved, that somehow demographic estimates will be made to produce acceptable data for small areas.

It is premature, unnecessary, and unwise to accept this assumption. The National Academy of Sciences' Committee on Population is nearing completion of a study of methods for estimating small area populations. Surely that set of experts should be heard from. I can tell you that the evidence is not reassuring. The Census Bureau's own figures show, for example, that errors of over 10 percent in the population estimates were revealed by special censuses in one third of the 2000 places that had a special census between 1973 and 1975. One community in three had an error of 10 percent or more. And the base for those estimates was recent at the time--the estimates were prepared only three to five years after the 1970 Census. I invite your attention to the fact that abandonment of planning for the mid-decade census would cause us to rely on demographic estimates for up to ten years.

What are the consequences of inaccurate estimates? Ten percent is the size of the claimed error in the current estimates that the State of Virginia prepares for jurisdictions in Northern Virginia, according to these governments. According to the March 27 Virginia section of the Washington Post the population of Northern Virginia is said by these governments to be understimated by 115,000 in the state figures, with enormous loss of state and Federal funding for highways, water, sewers, and other projects. Fairfax County demographer David Shetsky is quoted as saying, "We are talking about $20 to $40 million in federal and state grants to Fairfax County, not counting state aid to schools."

The Census Bureau has given a great deal of effort to the improvement of population estimates, so it is reasonable to expect that three to five years after the 1980 census, estimating errors of 10 percent will occur less frequently than one place in three. (Moreover, places that have special censuses are atypical in that their populations are usually changing rapidly and are therefore subject to larger than usual errors of estimate.) Keep in mind however, that the Administration would have us rely on estimates benchmarked only once in 10 years, greatly increasing the frequency with which the population estimates for small areas would be subject to large errors.

The point is that we still do not know how accurate the estimates are for small areas, and we cannot know until we compare them with the results of the 1980 Census. We should find out the results of that comparison, which the Census Bureau will be making in 1981, before we commit ourselves to reliance on estimates of population.

The statisticians I know regard the census as an indispensable basis for updating and correcting the population estimates for small areas. I have not made the acquaintance of those in the Census Bureau who, according to Andrew Hacker,

"do not need the decennial census as a basis for reliable estimates" (Washington Post, "Outlook" section for March 30). Professor Hacker's unnamed sources are perhaps not so deserving of attention on this question as is the Census Bureau's former Associate Director for Statistical Standards and Methodology, Joseph Waksberg, whose statement is appended to mine. Mr. Waksberg is alarmed by the Administration's deletion of mid-decade census planning funds and its readiness to rely on untested estimates of local populations. He urges testing, saying, "since there has been no large-scale test of the quality of these estimates, it seem shortsighted not to wait until comparisons of the intercensal estimates with 1980 Census data can be made." I agree.

If we accept the Administration's assurances and let this budget stand, we will have no further opportunity to consider the evidence that will come from these comparisons and studies, and no further opportunity to consider what provisions for mid-decade statistics will be necessary to meet the Nation's needs. The planning funds should be reinstated in the budget so that decisions can be made at the proper time when the information needed to make them is available.

Finally, I recommend that the Census Bureau be instructed to return to the Congress with a proposal for a mid-decade census that produces reliable small-area population data. All through the history of the mid-decade census, as noted by Conrad Taeuber in this hearing and by Joseph Waksberg, this has been the overriding purpose of the effort. Only a proposal that produces reliable data for small areas will be responsive to the plain intent of Congress and the declared needs of the many local, state, and Federal agencies and governments and the private sector.

The choice before the Congress is this: It can countenance the termination of planning for the mid-decade census in 1985, thereby avoiding the expenditure of $2 million in FY 1981. Or, it can insist on continued planning and thereby provide the opportunity for the Census Bureau, the Congress, and the Nation to develop a well-founded decision regarding the development in the 1980's of population statistics for local areas in the United States, on which the expenditure of many billions in public and private funds will depend.

Thank you, Mr. Chairman.

ATTACHMENT

Statement of Joseph Waksberg, "Status of Plans for the 1985 Mid-Decade Census," prepared for the Committee of Professional Associations on Federal Statistics, March 1980. Reproduced by permission.

STATUS OF PLANS FOR THE 1985 MID-DECADE CENSUS

Prepared by JOSEPH WAKSBERG

Legislation requiring a mid-decade census of population and housing beginning in 1985 was passed in 1976. This legislation was the culmination of a long effort extending over 100 years, for more frequent censuses. During the 1960's, legislation for mid-decade censuses was introduced in almost every session of the Congress.

In mandating the mid-decade census, Congress intentionally avoided establishing by law the scope and content of the program. The authorization has enough flexibility so that the Census Bureau may take into account the anticipated data needed at the time. However, it was expected that the mid-decade census would provide "updates of all target populations for allocation formulas and other federal programs, as well as to provide data for planning purposes at all levels of government and for the private sector" (from Representative Patricia Schroeder's remarks on the mid-decade census in the April 6, 1976, Congressional Record).

A mid-decade census is mainly needed for the production of subnational statistics. Existing programs, such as the CPS and its various supplements, and the Annual Housing Survey, already produce national data for virtually all items normally included in the decennial census at a level of accuracy at least as good as in a census and probably better. If needed, other national statistics not currently available from these programs can be prepared from other sample surveys at a small fraction of the cost of a census. The mid-decade census was largely viewed as providing statistics for states, SMSA's, cities, counties, and even smaller areas. This was the reason for Representative Schroeder's emphasis on allocation formulas and on data for planning purposes at all levels of government and the private sector.

In view of the needs the mid-decade census was intended to satisfy, it is disappointing to see the Census Bureau drawing back from planning for a census and instead discussing largescale sample surveys. Furthermore, it is alarming to learn that even funds for a large-scale sample survey may not be made available to the Census Bureau. (There are no planning funds for the mid-decade census in the President's budget request for fiscal 1981.) Finally, it appears possible that the major decisions on whether there will be any mid-decade effort, and if so its form, will be made without adequate time for state and local planning agencies and the research community in general to consider the impact of the decisions on their programs and to express their views.

The early decision requirement seems to stem from a combination of legislative and budgeting requirements and long planning time needed by the Census Bureau. In a paper on preliminary plans for 1985 delivered at the 1979 annual meetings of the American Statistical Association, and subsequently reproduced in the November-December 1979 issue of American Demographics, Daniel B. Levine and Marie Argana report on four key dates for 1985:

- June 1980 - Census Bureau to take position on design of the mid-decade census
- April 1982 - Census Bureau provides Congress with subject content of the census
- April 1983 - Census Bureau submits to Congress questions to be asked
- April 1, 1985 - Mid-decade census day

The Census Bureau has recently circulated background material on the mid-decade census and solicited comments and recommendations. It also plans to circulate a June, 1980, position paper on a wide scale, and its proposals could conceivably be modified. However, to be effective, the reactions

would have to come during the summer of 1980. The Census Bureau wants to have fairly firm plans by the late summer or early fall of 1980.

The main reason for the early decision on the nature of the mid-decade census seems to be the budgetary cycle. In late summer or early fall the Census Bureau will be preparing its proposed budget for fiscal 1982. Since funds will be requested for preparatory work on the mid-decade census in 1982, the budget apparently needs to state its entire costs, not just the 1982 part. A second reason for the decision date is the April 1982 requirement.

The Census Bureau is undoubtedly under pressure to keep budgets as low as possible. Furthermore, it is likely that without outside pressure the Administration will reduce the amount the Bureau requests even more and possible eliminate funds for new programs entirely, as it already has done with planning funds for fiscal 1981. If there is to be a mid-decade census with anything like the scope originally intended, a determined effort to change the direction the Administration is moving in is probably necessary in the next few months.

A mid-decade census was never viewed as a replica of the decennial census. The legislation encourages the use of sampling as long as basic objectives are met, stating that: "the Secretary shall, if he considers it feasible, authorize the use of the statistical method known as 'sampling' in carrying out the provisions of this title." The Census staff believes this phrase provides authorization for a large-scale sample survey to replace a census. Perhaps so, but it is likely that most users of Census data have a different view of the legislation. Mid-decade census has been the term generally used, and we think it has been assumed there would be a complete count of the population (hence the Congressional injunction against its use for reapportionment) with a group of items

collected on a sample basis. It is hard to see how there would be "updates of all target populations for allocation formulas" and "data for planning purposes at all levels of government" without complete population counts.

The Census Bureau has pointed out a number of pertinent factors influencing the decision to retreat from the original plans. First of all, the cost of a census has escalated sharply. The 1970 census cost about one dollar per person; the 1980 census is estimated to cost about four dollars per person. Some of this increase is, of course, caused by inflation. A large part is due to extra effort to reduce undercoverage. Some part is for refinements in publication plans. Once such improvements have been introduced, it is very difficult to remove them. Considering the prospects for future inflation, it is probable that even a stripped down version of a census in 1985 would cost over a billion dollars. It is unlikely that these kinds of costs were contemplated in 1975 when the mid-decade census legislation was passed.

Secondly, the Census Bureau has a much stronger program of small area data than existed in the early 1970's. The Census Bureau publishes at regular intervals intercensal estimates of the population and mean per capita income for each of the 39,000 political jurisdictions in the United States. These estimates provide important inputs to data needed for the allocation formula for general revenue sharing. (Population and per capita income do not cover all data needed for allocation formulas but they serve some of the more important requirements.)

COPAFS considered the current status of the plans for the 1985 census, at its November 1979 meeting. In general, the members understood the Census Bureau's reluctance to move ahead with plans for a billion dollar program and its attempt to find acceptable alternatives. However, there was considerable concern expressed over the Bureau's plans for a decision on the form of the Census in June 1980. There are at least two reasons

for delaying this decision. First, the fact that such a decision is imminent and that it will affect the nature of the mid-decade census had not been well publicized among major users of census data in November. At that time, the only dissemination of information on the alternatives being considered outside of the paper at the ASA meeting (with an audience of possibly 100), was a paper in American Demographics, and a brief reference in a bulletin issued by the Population Reference Bureau. It was not until the end of January that plans were circulated more widely. More time is needed for the alternatives to reach the user population, and for them to assess the impact on their programs.

The second reason relates to the quality and adequacy of the Census Bureau's intercensal estimates. There is no question that the Bureau has a much stronger population and per capita estimates program than existed in the early 1970's. It is likely that the estimates for the larger areas are quite good; the accuracy of the data for smaller areas is more uncertain. However, since there has been no large-scale test of the quality of these estimates, it seems shortsighted not to wait until comparisons of the intercensal estimates with 1980 Census data can be made. The 1980 population counts will be available by the end of 1980, or early in 1981. We would prefer that the decision on size and scope of the census be delayed until comparisons of per capita income data can be made, but as a minimum the Bureau should wait until the population estimates can be validated, early in 1981.

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Mr. HIGHTOWER. Thank you, Mr. Parke and Dr. Taeuber. It may be that if some of the predictions of disaster that I have been reading about concerning the 1980 census become realized, then we may be compelled to have a census sooner than 1985.

We appreciate very much your comments. Thank you for taking the time to be with us today.

Mr. PARKE. Thank you sir.

TUESDAY, APRIL 1, 1980.

INTERNATIONAL TRADE ADMINISTRATION

WITNESS

ROBERT WILLARD, INFORMATION INDUSTRY ASSOCIATION

Mr. HIGHTOWER. Our next scheduled witness is Mr. Robert Willard of the Information Industry Association.

We will be happy to hear your testimony, Mr. Willard. Do you have a prepared statement?

Mr. WILLARD. Yes, sir.

Mr. HIGHTOWER. We will insert your full statement in the record at this point. You may elaborate on it as you see fit.

[The statement follows:]

TESTIMONY
OF THE
INFORMATION INDUSTRY ASSOCIATION

CONCERNING THE REQUESTED APPROPRIATION
FOR THE
WORLDWIDE INFORMATION AND TRADE SYSTEM (WITS)

BEFORE THE
SUBCOMMITTEE ON STATE, JUSTICE, COMMERCE, AND THE JUDICIARY
COMMITTEE ON APPROPRIATIONS
UNITED STATES HOUSE OF REPRESENTATIVES

April 1, 1980

We appreciate the opportunity to appear before this subcommittee to discuss with you our concerns on the continuing efforts of the International Trade Administration of the Department of Commerce to see that valuable trade information is made available to potential exporters.

The Information Industry Association is a trade association, founded in 1968, that is comprised of 128 information companies with total annual information business revenues exceeding $1.5 billion. There are large companies in the membership, but a good number of our members are in the category of small business. Our members are in all phases of the information business: collecting, organizing, packaging, distributing, wholesaleing, retailing, and providing information technology equipment and services. Companies such as Dun & Bradstreet, Find/SVP, Information Handling Services, Journal of Commerce, and McGraw-Hill are included in our membership; a full listing is attached to this statement. Some of our members have a direct interest in the Commerce Department appropriation but most, if not all, share a common concern over establishing a government information program clearly in competition with private sector efforts. It is this point we would like to discuss today.

Specifically, we want to focus on critical issues in the development of a large scale, computer-based information system which has been identified as WITS, the Worldwide Information and Trade System. Our Association focused on this matter early

on, and made our concerns known to you last year. Some of these concerns have indeed been addressed, as reflected in the conference report language accompanying last year's appropriation bill.

> The conferees are agreed that the Industry and Trade Administration will fully involve the private information industry in the development of WITS. The conferees also expect the Industry and Trade Administration to insure that private sector efforts are enhanced and that ITA does not duplicate or compete with the private sector. (House Report 96-402)

Although addressed, our concerns have not diminished. Comments and actions by the Department of Commerce indicate that they intend to go forward and develop WITS on a basis which would largely ignore the existing information products, systems and services developed by a significant number of companies, large and small, in the private sector. Commerce would then sell the information to recover their investment costs, investment costs which would not be required if the products of industry were used. As a result, the incentive for American business to invest in developing new information products, systems and services, and to improve existing products, systems and services, would be thwarted if a taxpayer supported, government sponsored system is allowed to go forward.

These actions do not meet the mandate of your report language.

* * * * *

Before proceeding, however, let me assure you that we are in full agreement with the objectives of President Carter's Administration with regard to improving the international trade picture. The disincentives to exporting are many and we believe more attention should be focused on these. For example, in a statement on February 27th, the President discussed five major export disincentives: "uncertainty as to the application or interpretation of the Foreign Corrupt Practices Act; overlapping antiboycott laws and regulations; foreign policy export controls such as sanctions in support of human rights; nuclear materials export controls; and restraints on conventional arms sales to foreign countries." With regard to the problem of small business entering the international

marketplace, a number of specific impediments have been identified. In Commerce Department testimony before the Senate Small Business Committee on March 13th, the small businessman's difficulty in obtaining financing to begin export sales and the problem of coping with complex regulatory reporting requirements, both in the U.S. and in the destination market were discussed. Last year when the Secretary of Commerce traveled around the country to discuss exporting, she heard directly from small business that one of the major impediments to their exporting was government redtape. When representatives of small business came to Washington last January for the White House Conference on Small Business, the recommendations given highest priority by the group addressing international trade were in the areas of tax policies, expanded Eximbank and Small Business Administration financing programs, unification of diverse government export services, establishment of a cabinet level trade administration, and grant programs to encourage export support techniques. The small business marketplace is the justification for WITS. But small business did not identify WITS as a high priority need to stimulate international trade. WITS may be "nice to have" but with our nation's inflation rate and extraordinary interest rates for money, "nice to have" items have no place in the fiscal year 1981 budget.

Of course access to information about potential markets is an important element in exporting. In the March 13 Commerce testimony, it was stated that potential exporters "seek specific data on the market for their products, specific trade leads, and information on the cultural and marketing practices in the new market." We applaud this recognition of the importance that information plays in the exporter's decision. Where we have difficulty, is accepting the Commerce Department's techniques for improving access to this information.

In our letter to Chairman Hollings on July 12, 1979, we stated that "We oppose a government owned and operated data base information business created at taxpayer expense which duplicates and competes with private sector data base services."

Moreover we endorsed funding at the House approved level of only 20% of the $5 million requested by Commerce. After lengthy consideration, the House and Senate agreed to a funding level of $4 million, but they included in the report language the strict instructions concerning how this appropriation could be used, that we quoted earlier.

We were very pleased with this mandate contained in the report language. We felt that it gave an affirmative requirement to the Department of Commerce to work with the private sector in developing WITS. Commerce has not always complied with this requirement. Clearly, the Information Industry Association has established itself as a party of interest in the development of WITS, but at times during the past months, Commerce has taken steps without "fully involv(ing)" us. Meetings were held and documents were issued with little or no attempt to assure that IIA was informed. Obviously, if Commerce is to comply with the Congressional directive, one step, at a minimum, is to communicate directly with us on all significant developments.

Commerce did communicate directly and formally with us on a few occasions, and I would like to discuss these contacts. First, we received a letter dated October 30, 1979, proposing a method for including private sector data in one of the WITS files. Briefly, this proposal suggested that potential information providers could include in their bid an estimate of "possible lost revenues which the vendor might have realized from direct sale of its proprietary data to WITS users." IIA distributed this letter to interested members who responded directly to Commerce. Significant in the response was the fact that if such a procedure was followed, an established company that had commercial activity to protect would necesarily submit a larger bid than a new company would, and would therefore be excluded from participation.

Although this Commerce proposal was not deemed workable by our members, it is interesting to note that our member companies have offered an alternative proposal, that is to develop the entire WITS program at their own risk and cost without development cost to the government. The offer noted that the WITS program would be developed to

the specifications of the Department of Commerce and the marketplace. The member companies asked only one thing of the Department of Commerce; that one thing is for the Department of Commerce to subscribe to the industry developed WITS program on a multi-year basis. This offer was rejected by the Department of Commerce.

Another contact between the Department and us developed a few days before President Carter submitted his FY 1981 budget to the Hill. A meeting was set up between members of the International Trade Administration and members of the industry. This meeting which continued on three separate days resulted in a series of statements which the industry would like to see applied to implementation of WITS, but on which there is still some disagreement. Follow-on meetings will be held as soon as the Department of Commerce takes the necessary steps to announce in the Federal Register that such meetings will be held. Commerce is also exploring the possible establishment of a subcommittee to the President's Export Committee to continue to deal with questions of information policy in exporting. We look forward to hearing from Commerce on continuing in this vein.

* * * * *

Although our principal concern with the development of WITS is the competitive impact on the information marketplace, as we indicated above, we also would like to draw to this subcommittee's attention some serious problems we have identified regarding the Commerce Department's method of implementing this program.

WITS is a "major system" as defined by OMB Circular A-109, and by Commerce's implementing order (DAO 208-3). As such, Commerce is required to consider all alternatives which would meet the "mission need". The mission need is stated in the following objectives of WITS:

> "(1) to promote U.S. exports by delivering foreign market information, purchase leads, and U.S. supplier information to the appropriate users, either directly or via intermediaries.
>
> (2) To build upon current ITA information programs, thereby

embracing the effectiveness of ITA efforts to promote American exports."

These objectives were stated in the WITS feasibility study dated June 29, 1979.

The development cycle prescribed by OMB Circular A-109 then requires Commerce to "allow competitive exploration of alternative system design concepts in response to mission needs" and to "rely on private industry". Furthermore, the Circular, in paragraph 11, states that "Care should be exercised...not to conform mission needs or program objectives to any known systems or products that might foreclose consideration of alternatives."

Yet, Commerce's development studies have focused on only two alternatives, both of which represent essentially a single technology -- a predefined computerized, data base management system. The only difference is whether the system will be operated on in-house hardware or contracted hardware.

Commerce must, if it is to avoid a sham analysis, consider a variety of alternatives for meeting the mission need. As examples, we offer the following alternatives to a centralized data system:

a) distributed data processing, employing a local storage, switching network, possibly incorporating both government and private sector nodes;

b) batch processing for overnight or delayed delivery from large-scale central storage;

c) batch routing of inquiries for response by private enterprise;

d) microfilm-based inquiry, retrieval and storage systems, (1) with no ADP requirement or (2) with automated indexing and/or referral;

e) paper-copy storage with or without automated indexing and/or referral;

f) increased staffing, while relying on current systems;

g) improved versions of the current systems, with or without staff reallocations.

These alternatives are very real, and realistic. The single-minded approach adopted by Commerce thus far is admittedly within the capabilities of current technology. However, is it cost-effective? Is it the right mix of technological capability for the current state-of-the-art for export promotion? In these hearings last year, then Assistant Secretary Weil stated that this was a trial-and-error environment, that the kinds of information necessary were as yet uncertain; that the eventual costs of the system are unknown; and that no quantification of the benefits has been attempted.

In summary, WITS management has allowed the consideration of only one set of alternatives, not the competitive study of a number of ideas that is required by common sense and the Executive Branch's own regulations.

* * * * *

A prime tenet in the data processing field is that if you automate a bad system, you end up with an automated bad system. Commerce has made it clear that some of their information services such as AITR, TOPS, and other available systems are not working well. The reasoning is that the data is not accurate, not timely, and not used. In order to correct these problems, WITS is being promoted as the ultimate solution. However, it is essential to note that:

- No changes are proposed in the staff who are generating, submitting, entering and receiving this data.
- Local entry puts the onus of currect and timely data entry on the same personnel who are contributing to the quality of current data systems.
- No continuing training program is described or budgeted in the cost projections.
- Existing systems are not distinctly different from WITS in terms of their data content and referral techniques. Yet Commerce has criticized these systems as inadequate.

If the Department cannot make the individual, partial systems work effectively after a number of years of operation, how then can we expect Commerce to develop and operate a new, dramatically larger system that is technologically quite complex?

* * * * *

A recent GAO report covered an analysis of nine major ADP system development efforts. Of these, eight had serious problems. On the average, the systems cost twice as much and took twice as long as originally estimated for completion. In the same study, GAO surveyed 163 contractors and 113 agency project officers. Over half of the respondents indicated cost overruns were common, while almost two-thirds indicated calendar overruns were common. This data does not engender confidence in the Executive Branch's ability to define, develop, manage or control sophisticated ADP efforts.

* * * * *

The commercial service has a current staff of 900 in district and foreign offices. Only 260 of these officers are based domestically, trying to promote exports from 300,000 manufacturers and many hundreds of thousands of distributors and service organizations. If one assumed that WITS' $5 million were invested in additional staff, a 65% increase in staff effort would result. Can WITS do better than that in terms of ultimate effectiveness?

We believe WITS, if ever developed, will cost more, take longer, and not significantly increase export development. We believe that, in the meantime, trade information may suffer because private enterprise will not invest in new products, services or competition against the government's entry into the marketplace. We believe that this development may well also result in competition against private industry domestically. We believe that WITS must be scrapped.

* * * * *

Before concluding, we would like to suggest that there are some fundamental questions that Congress must consider before appropriating any further funds for WITS.

- What will the full cost of planning, developing and operating WITS be over the full system life cycle? How much of this will be recovered by user fees?
- What is a reasonable estimate of the number of new exporting companies and the number of companies increasing

their exports as a result of WITS? Who will these companies be? What will the dollar volume of the new exporting activity come to?

- How will government compensate private sector owners of proprietary information used in WITS? How will the government be compensated for private sector use of government-generated information?

- How strong is the commitment to contract out all of the various stages of WITS development (e.g. data collection, maintenance, dissemination, etc.)?

- What "security" provisions will be included in the system to assure access only by authorized users? What specifically will be done to prevent the system from being used by overseas manufacturers to identify potential American customers, as opposed to suppliers?

* * * * *

Clearly, the Department of Commerce has programs of significantly higher importance and criticality than the development of WITS. The success rate of the Department of Commerce in developing information products is very low when considering the Textile Information Management System, the American International Trade Register, the World Trade Data Reports, etc. Already, the WITS development effort is behind schedule and, consequently, it is probably over budget.

We strongly recommend that the FY 1981 appropriations for WITS be eliminated and that the resources and energies of this effort be redirected to other current and more critical problems.

Thank you.

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Mr. WILLARD. Thank you, Mr. Chairman. It is a pleasure to be here today to convey to you the feelings of the Information Industry Association on the budget request of the Department of Commerce, International Trade Administration, for $4 million for the Worldwide Information and Trade System or WITS.

IIA is a trade association founded about 12 years ago. We have about 128 members who are in the business of providing information to the people who need it. They have determined a market exists for information and they are meeting that market. All of our members, whether they are in the business effected by this particular proposal or not, share a common concern about the government establishing an enterprise that is in competition with their activities.

So we would like to focus on this issue from that point of view first of all. We have had contact with many members of this committee last year on this subject and this committee was very kind and very wise in reducing that appropriation to the level of $1 million.

However, as a result of conference committee activities, that appropriation ended up at $4 million, about 80 percent of what the Department had originally requested. Out of the conference committee, though, came important language that I would like to read and I think it states our concerns very well.

It says:

> The conferees are agreed that the Industry and Trade Administration will fully involve the private information industry in the development of WITS. The conferees also expect ITA to insure that private sector efforts are enhanced and that ITA does not duplicate or compete with the private sector.

However I don't believe that the record over the past year can fully support their commitment to that congressional mandate. There have been a number of times when we have not been convinced that their proposals are in concurrence with that language.

Before proceeding to specifics, let me just assure you that we are in full agreement with the President and his Administration on the need to do something about improving our balance of payments. We see numerous examples of disincentives to exporting and we have cited a few. Of special importance is the fact that the WITS proposal is said to give small business the ability to participate in the export activities.

But we would like to draw your attention to the fact that even at the White House Conference on Small Business where one of the proposals offered to the delegates as something to endorse was an endorsement of the WITS program, that did not even come out in the top 60 proposals forwarded by the White House conference to the President.

When we wrote to Chairman Hollings of the Senate subcommittee last year, we stated that we oppose the government-owned and operated data base information business created at taxpayer expense which duplicates and competes with private sector data base services.

Therefore, as I indicated earlier, we were very pleased with the mandate that was contained in the report language. However, I think that we have got to assure that the Department of Commerce works more closely in living up to this commitment.

Now Commerce has communicated directly and formally with us on a few occasions. For example, they proposed a method for including private sector data in just one of the WITS files. Our members commented on this and although they found it not workable, there was an interesting counter offer where our members proposed that they would develop the entire WITS program at their own risk and cost without development costs to the government. This offer noted that the WITS program would be developed to the specifications of both the Department of Commerce and the marketplace.

The member companies asked only one thing; that one thing is for the Department of Commerce to subscribe to the industry developed WITS program on a multi-year basis. This offer was rejected by the Department.

We have also had contact with them on a continuing basis to try and develop a series of statements on which we could all agree. Follow-on meetings in this endeavor are hoped for in the near term future as soon as the Department announces in the Federal Register that such meetings are being held.

They are also considering the establishment of a subcommittee to the President's Export Committee that would continue to deal with questions of information policy with regard to exporting. We look forward to continuing with the Department in this vein.

Let me turn to another aspect of this issue, and that is the method in which the Department is implementing this program. Specifically we call attention to OMB circular A–109 which is the document that establishes the regulations for implementing major systems, and WITS is certainly a major system, as defined both by the circular and the Commerce Department's implementing order. Following these orders the Commerce Department is required to consider all alternatives which would meet the mission need.

The circular then requires Commerce to "allow competitive exploration of alternative system design concepts in response to mission needs" and "to rely on private industry."

Furthermore, the circular states that "Care should be exercised . . . not to conform mission needs or program objectives to any known systems or products that might foreclose consideration of alternatives."

Yet, Commerce's development studies have focused on only two alternatives, both of which represent essentially a single technology, that is a predefined computerized, data base management system. The only difference in the alternative is whether the system is operated on an in-house computer or contracted out.

There are numerous other alternatives which we have proposed in our testimony. These alternatives are real and realistic. We feel the single-minded approach adopted by Commerce thus far is admittedly within the capabilities of current technology. However, there are questions that need to be asked about it, whether it is cost effective, and whether it is the right mix of technological capability.

In summary what I would say is that the WITS management has allowed consideration so far of only one set of alternatives, and not the competitive study of a number of ideas that is required both by common sense and by the Executive Branch's own regulations.

Before concluding, and especially because this committee also deals with the Department's National Telecommunications and Information Agency's budget, I would like to refer to a document that is in the budget submission of NTIA. On Page 2-2 they say that one of their missions is how to minimize. They have to look at policies that will minimize the risk of adverse consequences such as unnecessary foreclosing of the private sector from business opportunities and proceeding in ways which might be cost effective in the short run, but would increase the costs of government in the long run.

They state specifically that the role of information and the costs of information and information services in American society are changing at an ever-increasing rate. However, rules that appeared adequate years ago when there were discreet technologies and apparently neat categories of information and information services do not always serve us well any longer.

In view of the chairman's interest in a former Congressman who had one term here and then went onto the Presidency, Abraham Lincoln once said that, "The dogmas of the quiet past are inadequate to the stormy present." He said, "As the case is new, we must think anew and act anew."

I think that sentiment is very appropriate to the problem of WITS. The technologies that are allowing ever increasing participation of private sector entities in areas that may traditionally have been government activities in the past because only the government had the capabilities to meet that is a question and a problem that is facing information activities throughout the government. Particularly in the WITS area, it serves as an opportunity for the Congress to say that there is an appropriate role for the private sector to offer, through competitive marketplace activities and information services that meet the needs of national priorities.

I would like to conclude by suggesting that there are some fundamental questions that Congress really needs to ask before appropriating any further funds for WITS. Specifically, what will the full cost of planning, developing and operating WITS be over the full system life cycle. How much of this will be recovered by user fees? Secondly, what is a reasonable estimate of the number of new exporting companies and the number of companies increasing their exports as a result of WITS? Who will these companies be and what will the dollar volume of the new exporting activities come to?

These two sets of questions are very important to be considered side by side because the Department is obviously asking for an expenditure to meet an objective, and yet there is no quantification of what that objective will actually be.

There are some other questions that need attention. How long will the government compensate private sector owners of proprietary information that is used in WITS and conversely how will the government be compensated for private sector use of government-generated information? How strong is the commitment to contract out all of the various stages of WITS development?

Finally, what security provisions will be included in the system to assure access only by authorized users, that is users that meet the objective of the system? Specifically, what will be done to

prevent the system from being used inversely by overseas manufacturers to identify potential American customers as opposed to suppliers?

Clearly the Department of Commerce has programs of significantly higher importance and criticality than the development of WITS. I might add that the success rate of the Department of Commerce in developing general information products and offering computer products is pretty low. Already, the WITS development is behind schedule and, consequently, we believe it is probably over budget.

So we strongly recommend that the fiscal year 1981 appropriations for WITS be eliminated and that the resources and energies of this effort be redirected to other current and more critical problems.

Thank you for the opportunity to meet with you today. I would be glad to respond to any questions.

Mr. HIGHTOWER. Thank you very much, Mr. Willard. We appreciate your testimony. You have given us some good information. It will certainly be studied carefully by the committee. Thank you for coming today.

TUESDAY, APRIL 1, 1980.

IMMIGRATION AND NATURALIZATION SERVICE AND LEGAL SERVICES CORPORATION

WITNESS

GERDA BIKALES, NATIONAL PARKS AND CONSERVATION ASSOCIATION

Mr. HIGHTOWER. Our next witness is Gerda Bikales. We will be happy to hear from you.

Ms. BIKALES. I appreciate the opportunity to appear before you and comment on the INS budget.

The National Parks and Conservation Association is a major national environmental membership organization with a long record of advocating public policies leading to population stabilization in the U.S. Hence, our interest in immigration.

Like almost everyone else, we are here to ask for more money. Unlike almost everyone else, we are also suggesting some areas where you might get it. We testified before this subcommittee a year ago and were heartened by the addition of critically needed funds to the INS own anemic budget requests. Another year has gone by during which the situation has deteriorated much further.

Specifically, I would like to mention the Office of Management and Budget which sabotaged congressional directives, and the authorized manpower additions for INS enforcement this year did not materialize—again.

I have here some explanations offered by Assistant Attorney General Kevin Rooney to the House Judiciary Subcommittee on Immigration on the 12th of March of this year in which in effect, I will try to summarize. He explains in a language I can only call "double speak" why a reduction of 160 authorized Border Patrol

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positions is going to result in 567 work year increases on the immediate border. It is a masterpiece. I do not understand it at all. I just hope someone in the Congress does.

The result, however, is that year after year, despite congressional increases, the Border Patrol force remains at approximately 2,000.

Another problem is adverse weather conditions in several Mexican states which have produced massive crop failures. Resulting food shortages will predictably drive a larger number of Mexican migrants into the United States.

Also, the extent to which our northern border is unprotected was recently exposed. Entries from Canada are so free of risk that smugglers offer money-back guarantees. At least eight ports of entry are unguarded between 11 p.m. and seven a.m.. According to Glenn Bertness, Assistant Commissioner of Investigations at INS, this is "a calculated risk. We would like to keep all the ports manned around the clock, but there is just not money for it."

The painful cost to American society for this large and growing illegal presence has escalated further as a result of the Administration's decision to include illegal aliens in the 1980 census count for congressional reapportionment. Through this mechanism, the illegal population is becoming more entrenched and gaining access to the process of representative government at the expense of citizens.

Finally, I just want to mention the Iranian crisis which dramatized both the chaos within the agency and the dangerous shortages of internal enforcement personnel. When they finally did get some sort of list of Iranian students at risk, they had to remove 250 Border Patrol men from the Chula Vista sector in order to screen these students. Since that fiasco, more than 100 Iranian diplomats, agents of a hostile and aggressive foreign government, have disappeared somewhere beyond INS accountability.

A deep pessimism, all too understandable, has permeated our thinking on immigration policy and has virtually paralyzed political decision-making. The rumor has circulated that it would take an entire army to control illegal entries along the borders at a cost that is financially and politically unacceptable.

In this climate of defeatism, the newly released study by the U.S. Border Patrol Supervisors Association brings us a powerful morale booster. I have attached the study to my testimony. In effect, it refutes the notion that we need an army or that we can't afford it. The experts most knowledgeable on border security, the Border Patrol Supervisors, tell us we could increase efficiency to about a 90 to 95 percent level at a cost of $122.5 million. This would be spread over a period of three years and first year costs, as shown in the report, would be somewhere along $40 million.

I just want to stress that few areas of expenditure yield as many returns as the containment of illegal immigration. Without illegal aliens, unemployment would be less than 4 percent according to Secretary Ray Marshall. Enormous savings would be effectuated in health care, education, prison costs, in public subsidies for low-cost housing, Title II, for earned income tax credit refunds, and for free legal services, to mention merely the obvious.

Consequently, even at a time of severe fiscal restraint, we do not hesitate to request an increase of $53 million for the 1981 budget of

the INS, earmarked specifically for enforcement. This includes $40 million for border enforcement and $13 million for increased investigative capabilities inside the country.

Now for the good news: Fortunately, these funds can be allocated to INS without causing any further strain upon the over-burdened American taxpayer.

The Federal Legal Services Corporation has been defending illegal aliens in deportations hearings despite prohibitions imposed in the Immigration and Nationality Act and in the fiscal year 1980 Appropriations Act. By these activities, the Corporation has demonstrated not only its contempt for the Congress and the taxpayer, but also its need for a smaller budget.

Obviously the agency cannot manage to spend all its revenues for the benefits of persons residing here legally and has imaginatively sought out another clientele to augment its case load. From my personal contacts with INS personnel in the field, nothing is more demoralizing to them than the knowledge that their own government uses their own tax dollars to undermine the very meaning of their work.

There is probably no single action the Congress could take that would be more beneficial to the restoration of rank and file to INS morale than compelling the Legal Services Corporation to cease its harmful immigration activities.

Mr. HIGHTOWER. Ms. Bikales, are you reading from your prepared statement?

Ms. BIKALES. Yes.

Mr. HIGHTOWER. We will insert your entire statement in the record. We are happy to have your testimony.

[The statement follows:]

NPCA

Statement of Gerda Bikales
Administrative Assistant, Population/Immigration
National Parks and Conservation Association

Presented to the
Subcommittee on State, Justice, Commerce
and Judiciary

Committee on Appropriations
U.S. House of Representatives

April 1, 1980

I want to thank the members of this subcommittee for the opportunity to appear before you in defense of a realistic FY 81 budget for the Immigration and Naturalization Service.

My name is Gerda Bikales. I direct the program on Population/Immigration for the National Parks and Conservation Association. NPCA is a major national environmental membership organization, with a long record of advocating public policies leading to population stabilization in the United States.

Current quasi-official practices of condoning out-of-control, unchecked, and unregulated immigration make this goal ever more unreachable, and have led us to speak out repeatedly on this issue.

We testified before you a year ago, and were heartened by the addition of critically needed funds to the INS' own anemic budget request. Belatedly, I wish to thank you for your help and understanding in this matter.

Another year has gone by, during which the situation has deteriorated much further. Specifically:

*** The Office of Management and Budget sabotaged Congressional directives, and the authorized manpower additions for INS enforcement did not materialize - - again!

***Adverse weather conditions in several Mexican states have produced massive crop failures. Resulting food shortages will predictably drive a larger number of

Mexican migrants into the United States.

*** The extent to which our Northern border is unprotected was recently exposed in an Associated Press series (See Attachment I). Journalist Andrew Schneider reports that entry from Canada is so free of risk for illegal border crossers that smugglers offer a money-back guarantee. At least 8 ports of entry are unguarded between 11 PM and 7 AM; according to Glenn Bertness, assistant commissioner of investigations at INS, this is "a calculated risk. We'd like to keep all the ports manned around the clock, but there just isn't money for it."

*** The painful costs to American society of this large and growing illegal presence have escalated further, as a result of the Administration's decision to include illegal aliens in the 1980 Census count for Congressional reapportionment. Through this mechanism, the illegal population is becoming more entrenched in our midst, and gaining access to the process of representative government, at the expense of American citizens.

*** The widespread tolerance of flagrant violations of our immigration laws has spread to other sectors in our society, including a whole class of lawyers supported by the U.S. taxpayers. The Legal Services Corporation has wantonly ignored the restrictions imposed by this Subcommittee and passed into law by the U.S. Congress. In blatant defiance of both PL 96-68 and of the Immigration and Nationality Act (8 U.S.C. 1252 Sec 242 (b)(2)), these officers of the court continue to represent illegal aliens in immigration matters.

*** The Iranian crisis, and our subsequent attempt to review the immigration status of Iranian students, illustrated dramatically the chaos of INS record-keeping, and the dangerous shortages in internal enforcement personnel. INS never did produce its own roster of Iranian students at-risk, but simply made up one on the

basis of current enrollment information submitted by the colleges. The "official" figures used by INS are largely meaningless, as we don't know the whereabouts of so-called "students" not in college at the time orders were issued.

To check the status of students identified by the schools, INS had to remove 250 Border Patrol agents from the Chula Vista sector, and thus leave the most susceptible stretch of the border open to all comers.

Since that fiasco, more than one hundred Iranian diplomats, agents of a hostile and aggressive foreign governemnt, have disappeared somewhere beyond INS accountability!

A deep pessimism - - all too understandable - - has permeated our thinking on immigration policy and has virtually paralyzed political decision-making. The rumor is circulated far and wide that it would take an entire army to control illegal entries along the borders, at a cost that is financially and politically unacceptable.

In this climate of defeatism, the newly released study by the U.S. Border Patrol Supervisors Association (see Attachment II) brings us a powerful morale booster. It indicates that we can largely eliminate entries-without-inspection without resorting to military posturing and huge expenditures. We can regain control over our borders at an acceptable political and financial cost.

The experts most knowledgeable on border security, the Border Patrol supervisors, assure us that efficiency can be increased, from the current rate of 30-50%, to the 90-95% level, at a cost of $122.5 million dollars. In other words, we could be certain of apprehending 9 out of 10 surreptitious border crossers by adding 3500 Border Patrol agents, 350 support personnel, and investing $30 million in equipment. As Border Patrol training facilities are limited to a maximum of 1200 new recruits yearly, these increases would have to be phased in over a period of three

years, and the first year expenditures for this efficiency program would be no more than $40 million. (see tables in Attachment II , "Total, Border Effective Force," and "Budgetary Additions, First Year").

Few areas of expenditure yield as many returns as the containment of illegal immigration. Without illegal aliens, unemployment would be less than 4%, according to Secretary Ray Marshall. Enormous savings would be effectuated in health care, in education, in prison costs, in public subsidies for low-cost housing, for Title XX programs, for earned income tax credit refunds, and for free legal services, to mention merely the obvious.

Consequently, even at a time of severe fiscal restraint, we do not hesitate to request an increase of $53 million for the FY 81 budget of the Immigration and Naturalization Service, earmarked specifically for enforcement activities. This includes $40 million for border enforcement, and $13 million for increased investigative capabilities inside the country, to deal with the long neglected problem of visa overstays and fraudulently documented entries.

Fortunately, these funds can be allocated to INS without causing any further strain upon the over-burdened American taxpayer.

The Federal Legal Services Corporation has been defending illegal aliens in deportation hearings, despite prohibitions imposed in the Immigration and Nationality Act and in the FY 1980 Appropriations Act. By these activities, the Corporation has demonstrated not only its contempt for the Congress and the taxpayers of the United States, but also its need for a smaller budget. Obviously, the agency can't manage to spend all its revenues for the benefit of persons residing here legally, and has imaginatively sought out another clientele to augment its case load.

From my many personal contacts with INS personnel in the field, nothing is more demoralizing to them than the knowledge that their own government uses their own tax dollars to undermine the very meaning of their work. There is probably no single action the Congress could take that would be more beneficial to the restoration of rank-and-file INS morale than compelling the LSC to cease its harmful immigration activities.

In summary, one can say that the budgets of the INS and of the Legal Services Corporation are peculiarly linked: the INS lacks the money to keep illegal aliens out, and the Legal Services Corporation has enough money to keep them here once they elude the INS. Thus, it becomes a simple matter of reallocating spare resources from a function that subverts the national interest, to one that serves it well.

The proviso on services for illegal aliens attached to last year's Appropriations bill must be retained and strengthened; the legislation that created the agency must be amended to expressly prohibit these distasteful activities; and the Legal Services Corporation budget must be slashed to reflect the displeasure of the Congress and of the people it represents.

I thank you for your attention, and shall be pleased to answer your questions.

TUESDAY, APRIL 1, 1980.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

WITNESS

FRANK NORWOOD, JOINT COUNCIL ON EDUCATIONAL TELEVISION

Mr. HIGHTOWER. Our next witness is Mr. Frank Norwood. Mr. Norwood, I regret the problem we have on the time. Do you have a prepared statement?

Mr. NORWOOD. Yes, I do.

Mr. HIGHTOWER. We will insert the entire statement in the record. You may take about two minutes to elaborate on your statement.

[Mr. Norwood's prepared statement follows:]

JCET

JOINT COUNCIL ON EDUCATIONAL TELECOMMUNICATIONS
1126 Sixteenth Street N.W., Washington, D.C. 20036
202 / 659-9740

STATEMENT OF

THE

JOINT COUNCIL ON EDUCATIONAL TELECOMMUNICATIONS

BEFORE THE

SUBCOMMITTEE ON STATE, JUSTICE, COMMERCE AND THE JUDICIARY

COMMITTEE ON APPROPRIATIONS

UNITED STATES ~~SENATE~~
HOUSE OF REPRESENTATIVES

APRIL 1, 1980

STATEMENT OF

THE JOUNT COUNCIL ON EDUCATIONAL TELECOMMUNICATIONS

Chairman Smith, members of the subcommittee, I thank you for the opportunity to be here. I am Frank W. Norwood, Executive Director of the Joint Council on Educational Telecommunications, a thirty-year old consortium of associations and organizations in education, public broadcasting and library and information services. A list of member organizations is attached. The JCET was originally organized in 1950 by the American Council on Education and others as the Joint Committee on Educational Television to provide leadership for education's successful effort to have the Federal Communications Commission reserve channels for noncommercial broadcasting.

Since we were "present at the creation," it will be no surprise that we have a strong interest in those programs which support the extension of the benefits of public radio and television to the greatest number of citizens. At present, while all Americans, through Congressional appropriations for the Corporation for Public Broadcasting, help to pay for public radio and TV, not all are able to receive such programs.

The Public Telecommunications Facilities Program, now a part of the Department of Commerce's National Telecommunications and Information Administration, had its beginnings in the U.S. Office of Education's Educational Television Facilities Program in the early 1960's. Federal matching funds have provided the necessary impetus to raise the local monies for the construction and continuing operation of the more than 250 stations which make up membership of the Public Broadcasting Service.

The JCET strongly supported the expansion of the original ETV Facilities Program to incorporate support for the activation, expansion and improvement of public radio stations. Once called "The Hidden Medium," public radio has demonstrated

renewed vitality, and is now undergoing growth but there is much to be done before the programs of National Public Radio are available to all the people.

Public television now reaches 85% of American viewers, but public radio is available to fewer than 70% of radio listeners. The first priority of the Public Telecommunications Facilities Program is to extend the coverage fo public broadcasting to make it available to those not now served.

Unlike the earlier facilities programs within USOE, the Commerce Department's effort recognizes the availability of such new communications technologies as cable and satellite as important potential tools, not only for extending the reach of public radio and television, but for providing additional program services and new opportunities for women and minorities to take their appropriate places in public communications.

For example, public television already reaches an additional million homes through the carriage of PTV stations by cable TV and by the use of low-power TV translators which re-transmit the signals of conventional broadcast stations to "fill in the gaps"--not only in rural areas, but even for such urban areas as LaJolla, California, and downtown Baltimore.

In 1979 the Public Telecommunications Facilities Program funded the following projects. In North Dakota, planning grants were made in Ft. Berthold for facilities to deliver needed services and to the United Tribes Educational Technical Center to plan for a public radio station. In Texas, funded projects included expanded coverage for KTXT-TV, Lubbock, a bi-lingual radio station in San Antonio, and assistance to the Association for Graduate Education and Research in the Dallas-Ft. Worth area.

In Iowa, grants were made to extend the service of a public radio station in Council Bluffs and to establish an innovative nicrowave network to serve seven counties. The Iowa Public Broadcasting Network was helped to reduce energy consumption while improving reception. In Arizona, Arizona Western College, the University of Arizona, and Northern Arizona University in Flagstaff benefited from this program.

The importance of the Public Telecommunications Facilities Program is that relatively modest amounts of Federal monies serve to release far larger commitments of local funds and that, together these investments multiply the dividends gained from our collective stake in the Corporation for Public Broadcasting, the Public Broadcasting Service, and National Public Radio. The primary interest of many of the members of the Joint Council on Educational Telecommunications is in education, formal and informal, in-school and for adults. In expanding to encompass the development of non-broadcast technologies as its predecessor programs had not done, the PTFP is encouraging innovation and the application of newer and less costly communications which also open up opportunities for specialized educational and instructional programs for highly targeted audiences. The cost of such efforts is modest, but the long term benefits promise to be substantial.

The President's budget proposed an appropriation of $21.7 million for FY '81, far less than the authorized $40 million and, in fact, a reduction of the $23.7 million appropriated for FY '80. We express our concern, not only because this step backward comes at a time when the Program has in hand more than 450 applications, requiring $80 million to meet ($120 million in requests are anticipated during the coming year) but because we fear that the current rush to balance the budget by slashing programs might well occasion incursions on the dollars already appropriated for 1980.

Some examples of grants applications in the nonbroadcast area are as follows: Fayetteville, Arkansas has requested $72,854 for the construction of an open access cable channel which would be used to reach rural, northwest Arkansas, an otherwise isolated area. Fayetteville also hopes to develop a production studio and several connections via microwave.

In Massachusetts, there are a number of nonbroadcast projects that are worthwhile and innovative. The Clarke School for the Deaf, for example, has requested $177,401 of federal funds for the construction of an open captioning television

facility which would distribute programming via cable. The community itself is willing to put up $162,639 which represents almost one half of the entire project cost! In Marshfield, the Talking Information Center has submitted a construction request for $46,759 . This project would provide the first full-time radio reading service for the visually handicapped and would be carried on subcarrier station WATD. The total project cost is $126,928, revealing an impressive local commitment. A third grant request, from the Deaf Communications Institute is a project which has already successfully utilized funds from the Department of Health, Education and Welfare's office of Telecommunications Demonstrations. The $561,908 requested would allow this successful project to continue.

In Texas, Austin Community Television has requested $30,490 to expand and stabilize telecommunications services so that ties can be strengthened with the minority population in the surrounding area. The Hurst-Euless-Bedford Independent School District has a planning grant request submitted for $39,760 to build a multi-technological communications information center using an interactive cable system which, if completed, will be able to serve three communities.

No new communications technology has better demonstrated its importance nor holds more promise for future benefits for education and public service than the communications satellite. Much of our experience has been first hand as we have served as a bridge between the National Aeronautics and Space Administration and the educational community for many of the activities which were carried on via NASA's experimental satellites in the ATS series and the U.S-Canadian joint venture, the Communications Technology Satellite.

The problem of providing a transition for education and the public service applications from "free" experimental satellites to operational satellite services

available at commercial rates is not one likely to be overcome without a well thought-out program of planning and assistance. That is the object of NTIA's "Public Telecommunications Services Program." The rapidly expanding use of domestic satellites in the private sector mandates prompt and meaningful action if public sector interests are not to be lost in the shuffle. The "Public Telecommunications Services Program is intended to provide transition funding to allow the development of market aggregation and service development in the public sector. With efforts just now beginning, it is essential that funds be available in FY'81 to continue the transition process. Otherwise, initial investments may be negated by NTIA's inability to deliver four years of declining Federal support for efforts which, in the longer run, will be self-sustaining and operational.

Like the Public Telecommunications Facilities Program, these federal funds represent "seed money," an investment which will pay multiple dividends. Therefore, to make cuts here is to be guilty of false economy, sacrificing long-term gains for the illusory benefits of short term savings.

JCET

JOINT COUNCIL ON EDUCATIONAL TELECOMMUNICATIONS
1126 Sixteenth Street N.W., Washington, D.C. 20036 202 / 659-9740

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MEMBERSHIP

Agency for Instructional Television (AIT); Bloomington, IN
American Association for Higher Education (AAHE); Washington, DC
American Association of Community and Junior Colleges (AACJC); Washington, DC
American Association of School Administrators (AASA); Rosslyn, VA
American Council on Education (ACE); Washington, DC
American Library Association (ALA); Washington, DC/Chicago, IL
Association for Educational Communications Technology (AECT); Washington, DC
Corporation for Public Broadcasting (CPB); Washington, DC
Council of Chief State School Officers (CCSSO); Washington, DC
Great Plains National Instructional Television Library (GPNITL); Lincoln, NB
Indiana Higher Educational Telecommunication System (IHETS); Indianapolis, IN
Maryland Center for Public Broadcasting (MCPB); Owings Mills, MD
Mississippi Authority for ETV; Jackson, MS
National Association of Educational Broadcasters (NAEB); Washington, DC
National Association of State Universities and Land-Grant Colleges (NASULGC); Washington, DC
National Catholic Education Association (NCEA); Washington, DC
National Education Association (NEA); Washington, DC
National Instructional Telecommunications Council (NITC); Williamburg, VA
National Public Radio (NPR); Washington, DC
National University Extension Association (NUEA); Washington, DC
Ohio Educational Television Network Commission (Ohio ETV); Columbus, OH
Pennsylvania Public Television Network (PPTN); Hershey, PA
Public Broadcasting Service (PBS); Washington, DC
Virginia Public Telecommunictions Council (VPTC); Richmond, VA
University of Mid-America (UM-A); Lincoln, NB

Mr. NORWOOD. Thank you, Mr. Chairman. I appreciate the opportunity to be heard today.

I shall not repeat the statement. I would like to highlight that we are concerned with two programs within the NTIA budget within the Department of Commerce.

One is the education program of the Public Telecommunications Facilities Program. This program has a long history, originally from HEW. It has been the principal seed money by which the Federal government has encouraged the development of public radio and television stations. I want to point out that investments made by the Federal government are essentially leverage dollars at the local level both for the remaining portion of the construction of such stations and for their long-term operation.

The money that is being spent by the Federal government also serves the prime purpose of this act which is to expand the existence of public television and radio stations so that public broadcasting programs from PBS and NPR can be enjoyed by a growing number of the American citizens who, through the appropriation to the Corporation for Public Broadcasting, support those programs.

Therefore, money that is spent here helps to make more fruitful the money that is invested both on the state and local level and by other parts of the federal budgets.

Therefore, I think this is a particularly important program. It also encourages the development of new technologies such as cable television and instructional television, fixed service, satellites and the like which in many cases are more appropriate and less expensive ways of extending public services in radio and television.

The authorization is for $40 million. The demands which are documented by NTIA are for $80 million. Many of my members would urge that as close to the $40 million appropriation as possible be made, but we are mindful of the fact that there are great pressures to balance the budget. I would like to point out that the OMB recommendation for $21.7 million represents a $2 million decrease over last year. I would hope that since the benefits of this program are substantial and the investments are small, that we would certainly not have to take a fall-back position.

The second program I want to talk about is the development of satellite wholesaling, that is to say, communication satellites have proved very effective in the private sector of our economy in this country. They have not generally been available effectively in the public service sector because public service users tend to be many and diverse. A small investment of a bit more than $1 million by NTIA would help that public service sector of the economy come together and take advantage for the benefit of all of us and for reduced costs of operation and more effective services in the public area through the use of this new and demonstrably powerful technology.

Thank you very much, Mr. Chairman.

Mr. HIGHTOWER. Thank you, Mr. Norwood. We do appreciate your cooperation. Your full statement will be carefully studied by the subcommittee.

Mr. NORWOOD. Thank you, Mr. Chairman.

TUESDAY, APRIL 1, 1980.

OFFICE OF JUSTICE ASSISTANCE, RESEARCH, AND STATISTICS

WITNESS

RICHARD SHAPIRO, PROJECT DIRECTOR, MIDWOOD KINGS HIGHWAY DEVELOPMENT CORPORATION

Mr. HIGHTOWER. We are glad to have Mr. Richard Shapiro, from the Midwood Kings Highway Development Corporation.

Mr. SHAPIRO. Thank you very much, Mr. Chairman, for the opportunity to appear before you today.

My name is Richard Shapiro, Project Director of the Midwood Kings Highway Development Corporation's Community Anti-Crime Program. I am speaking on the proposal to reinstate funding for the Law Enforcement Assistance Administration's Office of Community Anti-Crime Projects.

Our case is a simple one. It is made on behalf of the 64,000 residents of the small town in Brooklyn, New York known as Midwood. The citizens of Midwood have suffered greatly at the hands of a criminal element uncaring of the hopes and aspirations of a fine community. Our area, for year after year, had seen unabated increases in burglary, robbery, auto theft, assault and other crimes. We have also seen unabated decreases in police protection.

Year after year our crime problems grew and our police force shrunk. The cycle of urban blight appeared to be on a steamroller course heading straight for our neighborhood.

Mr. Chairman, two years ago a ray of hope cut through this gloom. The Law Enforcement Assistance Administration, acting upon a mandate from Congress, established a Community Anti-Crime Project in Midwood.

This project, which I have been honored to head, has brought together the three established branches of the criminal justice system—Police, Courts and Corrections—with the one force needed to give them massive clout, the people it was designed to serve. These people would now become active participants in that system rather than passive bystanders.

Mr. Chairman, we have accomplished something in Midwood we never thought possible. By organizing people on a block by block, building by building basis, and by developing methods of self-help which build on the strengths of our society, we have begun to turn around the rise of criminal activity.

We have organized car patrols and blockwatchers to work with the police. We have organized court watchers to work with the judges and district attorneys. We have organized youth programs in recreation, mental health and family counselling to deal with those youngsters who previously were merely processed through the system. We have organized senior citizens' programs to work with those who are most profoundly victimized by the criminals. Program after program has been organized, experimented with and

operated with astounding success. The monies involved have been minimal. Just $156,750 was spent in our first year and $117,563 in our second.

The results, as we have stated earlier, surprised even us. Felonies have dropped across the board almost 20 percent since the project began. Burglary, our major problem—we were third in New York City—dropped a full twenty percent. Auto larcenies—we had been number one citywide—dropped thirty-two percent. Larceny from motor vehicles dropped an astounding forty-two percent. There is a complete crime chart from the New York City Police Department enclosed with my statement.

The community rose up and took its own destiny in its hands. And yet with all of this, the effort in Midwood is in danger of imminent collapse. It seems that, in spite of our success, the LEAA Office of Community Anti-Crime Projects tells us that they will be forced to take away even our small seed money support. They state that in spite of the congressional mandate contained in the Justice System Improvement Act of 1979 to "designated effective community anti-crime projects for funding" they will have insufficient funds to do so.

I would add in the light of the Budget Committee's action last week, the picture is even bleaker than I have presented in this statement, with LEAA budgeted for zero dollars almost in the 1981 budget.

Gentlemen, we understand the mood of the country to cut federal spending and balance the budget. We understand the President's concern over rising federal expenditures. But we also are aware that cuts are not made blindly, without regard to consequences.

We submit to you that the Midwood project has saved more money than it has spent. Each time a crime has been prevented a chain reaction of cost savings both to government and the public is effected. When a crime is prevented, no victim's claims are submitted; no medical bills or compensation costs are paid out; no insurance claims are filed. When a crime is prevented, no police investigation need be conducted; no paperwork need be filled out; no fingerprints taken; no interviews conducted. When a crime is prevented, no grand jury sits for indictment; no arraignment and pretrial hearings are held; no jury selection is made; no trial and appeals are conducted. Gentlemen, when crime is effectively prevented, the dominoes begin to fall.

According to a recent study by LEAA and the Census Bureau, the total government expenditure for criminal justice activities in the U.S. in 1977 exceeded $21.6 billion, or $87 for every man, woman and child in our country.

We contend that the few dollars spent in crime prevention will have budget balancing implications of hugh proportions.

I would like to quote to you from an editorial of the New York Daily News, written about us, which says it all.

> The Midwood program is a far cry from those wasteful federal boondoggles that only create new layers of bureaucracy and alienate people from both their government and each other * * *. They have learned the lesson that crime prevention is a lot cheaper than crime.

I have included the full editorial for your consideration.

Gentlemen, the Midwood project has only begun the long road back from urban deterioration. Our project, which has made some few inroads into the problem, would be a complete failure if federal support was withdrawn at this stage of our development.

People in our community have just begun to feel confident that the crime problems can be effectively addressed. They have just begun to impact the long atrophied criminal justice system. They have just begun to see that if a community fights back against crime, that they can win.

What has also just begun, Mr. Chairman, is the replication of the Midwood success in other communities. We have started to spread the methods and techniques applied to Midwood to other neighborhoods, not just in New York City, but in other parts of the country as well.

Should we be forced to withdraw from Midwood now, with no one in government willing to step in, we submit to you that the criminal element will have won an astounding victory. They will have demonstrated that government is not really willing to commit itself to citizen involvement and that government does not really wish to utilize its most massive resource, that of its own people, in the fight against crime. The citizens of Midwood are not yet able to maintain these programs on their own. The future, then, is in your hands.

We ask you, gentlemen, can this movement be continued? Can Midwood continue to be a model for other communities around the country to adopt? New York City and New York State do not have the resources to continue us. You have the resources. Do you also have the will?

Thank you, Mr. Chairman, for this opportunity.

Mr. HIGHTOWER. Thank you, Mr. Shapiro.

Mr. Alexander?

Mr. ALEXANDER. I have no questions at this time.

Mr. HIGHTOWER. Mr. O'Brien?

Mr. O'BRIEN. I have no questions at this time.

Mr. HIGHTOWER. As I understand it, you are incorporated.

Mr. SHAPIRO. Yes, sir. Not for profit.

Mr. HIGHTOWER. Do you have any other source of income, other than the LEAA grant?

Mr. SHAPIRO. Yes, sir. Since the grant has been implemented, we have begun programs in housing rehabilitation, with the assistance of HUD. We have begun an educational program under the Emergency School Aid Act from HEW. Several state grants have come in for commercial revitalization projects, all based on the massive community organizing effort that began with the crime prevention program.

We have been attempting to organize the community on a grassroots basis. I didn't go into the specifics here. We have organized almost two hundred block tenant associations in the community which comprises almost the total of the 64,000 people in the area.

Mr. HIGHTOWER. Did you say there are 64,000 people in the area which you describe as your geographic area?

Mr. SHAPIRO. Yes, sir, 64,000. Through that network of block and tenant organizations, including merchant associations and civic groups, we intend to and we have been for the last two years

implementing all of these programs on a grass-roots basis. The bulk of them are volunteer-oriented. For instance, our car patrols put out five cars a night, only two of which are paid through LEAA funds. Nobody pays anybody to drive or ride in those cars. Over 1,200 volunteers give their time and effort, about one night a month each.

Mr. HIGHTOWER. How many paid staff do you have?

Mr. SHAPIRO. Two full-time and two part-time, the top salary being my own. It is part of the record. For our forty-hour week, which is actually about sixty or seventy hours, it is fifteen-and-a-half. Everything else is based lower than that. It is primarily volunteer organized and implemented.

Mr. HIGHTOWER. Mr. Shapiro, we appreciate your taking the time to come and give us the benefit of your testimony today. I apologize to you for having postponed you until after lunch. I hope I didn't inconvenience you very much.

Mr. SHAPIRO. No problem. Thank you very much, Mr. Chairman.

TUESDAY, APRIL 1, 1980.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

WITNESS

EDWARD ARTHUR TRABANT, PRESIDENT, UNIVERSITY OF DELAWARE

Mr. HIGHTOWER. Dr. Trabant, President of the University of Delaware. We are happy to have you with us today.

Mr. TRABANT. Thank you, sir.

Mr. HIGHTOWER. We will insert your prepared statement in the record at this point and we will be glad to have your comments.

[The statement follows:]

Testimony to the
House Appropriations Committee
Subcommittee on State, Justice,
Commerce, and Judiciary

by

E. Arthur Trabant, President
University of Delaware

April 1, 1980

Mr. Chairman, my name is E. Arthur Trabant and I am President of the University of Delaware, both a Land Grant and Sea Grant University. I begin with a brief history of marine program development at the University of Delaware. In 1950, 30 years ago, a group of citizens, mostly commercial fishermen, met with the governor and university officials to decide how scientific knowledge could be brought to bear on the marine resources of Delaware so that better economic use could be made of them. As a result, a marine laboratory was established as a sub-unit of the University's Biology Department. During the next 18 years, programs in marine geology and ocean engineering were established to deal with problems of coastal erosion and ocean engineering, both subjects of considerable economic importance to Delaware. In 1966, the Sea Grant College and Program Act was passed. In 1968, the University of Delaware received a project grant to study the revitalization of the shellfish industry in Delaware Bay, once a major marine industry, but one which had declined due to pollution, disease, and lack of management

practices. In 1970, a coherent area grant was made to the University with a resultant increase in funding and program scope. In 1971, the University was named the nation's 12th Sea Grant institution and in 1976 Delaware was designated as the nation's 9th Sea Grant College.

I present this brief history because I want you to appreciate when, how, and why our University began giving attention to the marine resources of our tidewater state, and second, that the Sea Grant program has had a strong influence on the objectives and organization of the University of Delaware's marine program and on the University as a whole. I have had the good fortune to have been President since 1968 and thus have participated personally in this exciting period of growth.

Now for specific points about the National Sea Grant Program, its very positive results to date, and its even more promising potential for the future.

1. The Sea Grant Program Strengthens the National Economy

Probably the most significant feature of the National Sea Grant Program is that it brings to bear the talents of our nation's major universities on problems associated with wise development and use of our national vast marine resources. The Sea Grant Program is identifying and developing new resources for the nation in such areas as biomedicinals, aquaculture and fisheries. Several of the research efforts throughout the Sea Grant network have matured to the point

where pilot scale operations are necessary to prove commercial value. We at Delaware will have operational in about one month our first pilot plant scale controlled environment mariculture prototype. In this way, we can fully evaluate the economic potential of this process which we hope, one day, to bring to the level of sophistication of the poultry industry on the Delmarva peninsula.

The potential for large incremental gains in marine resource productivity are substantial. Historically, scientists and engineers have concentrated on exploitation of land-based resources and even greater economic rewards are coming from the positive exploration of the sea.

2. The Sea Grant Program Encourages University-Industry Partnerships

At the University of Delaware the Sea Grant Program has been the catalyst which has stimulated more industrial participation in research than any other program in the University's history. Industries have been formally involved through both direct financial contributions and services in kind with Sea Grant sponsored research in the following areas (1) controlled environment mariculture, (2) wave energy conversion, and (3) crab waste chitin (kite-in) utilization. In the near future, we will be entering into an industry partnership in a research program devoted to oil spill protection. Such collaboration has proven to be of real benefit to both parties. Industrial investment is also an excellent indicator of the perceived worth of research.

3. The Sea Grant Program Provides Large Return on Federal Investment

This is in part through design of the original act which requires one non-federal dollar of matching funds for each of two federal dollars received. This feature of the Sea Grant Program has helped us at the University of Delaware to secure additional outside support, from both the state and the private sector. Nationally, as the accomplishments of Sea Grant have become known to potential non-federal supporters, more matching dollars have been pledged than required by law. This condition is known as over-match. In FY79, the amount of matching dollars supplied throughout the Sea Grant network were two times that required by law. At our University, the amount of over-match provided was 2.5 times that required. Universities do not show over-match without careful consideration since all matching claimed when a Sea Grant is made is subject to full federal audit. In other words, these are real dollars, and they make a substantial contribution to the over-all effectiveness of the Sea Grant Program.

4. The Sea Grant Program Stimulates Innovation

At the University of Delaware we have been granted 11 patents as a result of Sea Grant research and 23 more have been applied for. Of course, patents do not result from the Sea Grant Program Act alone. They require patent policies and procedures at the University to make the patent process

attractive to innovative researchers. Beyond the provisions of the basic Sea Grant Act, it is necessary for Universities to request extended rights so that patents can be marketed more widely. It is also necessary for the University itself to establish policies for the sharing of royalty income which are attractive to all concerned. The policy of the University of Delaware is to divide all royalty income, after the cost of filing is recovered, one-third to the inventor, one-third to the inventor's parent unit to encourage further research, and one-third to the University to both cover the cost of operating the patent program (e.g. costs of patents filed which produce no income) and to encourage further research.

Fifth and Final Point is that the Sea Grant Program Deserves Increased Support

The National Sea Grant Program is slightly more than one decade old. Fifteen Sea Grant Colleges are now established and an additional 16 universities receive program support. This past decade has been a decade of what I like to refer to as "getting organized." Sea Grant universities are pleased and enthusiastic with the operating philosophy and methods of the National Sea Grant Office. This is a reflection of the, in my opinion, first-rate leadership there. At our university the best professors participate with real enthusiasm, and they in turn convey a sense of value and quality to the industries which support Sea Grant research.

The second decade of Sea Grant support needs to be one of growth. The university infrastructure is in place, significant areas of marine resource research and development are underway and can be accelerated if the funds are made available to increase the research efforts. I urge this committee to recommend the budget increase of $7.9 million dollars recommended by the National Sea Grant Association and the National Association of Universities and Land Grant Colleges.

Conclusion

In closing I want to state my belief that the philosophy of the Sea Grant Program--the prompt and wise development of the nation's marine resources--is right for the decade of the 1980's. Many federal allocations of tax dollars are inflationary because they do not create new wealth. The Sea Grant Program is different. It creates new wealth for our country and hence is anti-inflationary. How does it create new wealth? It does it through new inventions, new processes and new products. Then, in addition, through its Marine Advisory Service, ties the public's interest quickly and directly into these new developments.

Thank you. I will be pleased to answer any questions.

Dr. TRABANT. Thank you, Mr. Chairman.

With me, gentlemen, is the Dean of our College of Marine Studies, William Gaither, and the Executive Director of our Sea Grant Program, Carolyn Thorogood.

First of all, let me tell you why I am here. The reason I am here—this is not a usual thing for me to do—is because I believe that the Sea Grant Program is probably one of the best things that we have done in our country in a long, long time. I believe this to be true as a nation as a whole. I believe it to be true for higher education in general, and particularly true at our University of Delaware. I want to go over six points, less than a minute on each, that I think show this is one of the best things we have ever done as a nation.

Now, the first pointer is that the Sea Grant Program strengthens our national economy. How does it get that done? Well, it takes some of the best minds in the country that happen to be in the bodies of university professors in major universities of our country, and it permits them and encourages them to tackle problems of great significance to our country for economic development. What are some of those areas? Biomedicinals, aquaculture, fisheries.

What they do is take these new ideas and try to bring them up to the point where they really are put out on the marketplace in production. For example, at our university we will have in less than a month from now our first pilot plant scale controlled environment mariculture prototype. What does that mean? As you may know, it was the University of Delaware that helped solve the maric lung disease of chickens. The present booming industry and food supply of the poultry industry came about from that breakthrough in research. We hope to do the same thing in clams and oysters. As we say in Delaware, we have more feathers per square foot than any other state in the union. We hope to say someday we have more clamshells and oyster shells per square foot.

Mr. HIGHTOWER. We don't have any lung disease in the clams and oysters, though.

Dr. TRABANT. Quite right.

Now, the second thing is that the Sea Grant Program encourages university-industry partnerships. This is not easy to bring about in higher education. But the Sea Grant Program enables this to happen. And we have been quite successful nationally, and in particular at the University of Delaware. Some of the areas that we have co-sponsorship with industry are controlled environment mariculture, wave energy conversion and crab waste chitin utilization. We are just entering into a research program, an agreement with industry, which will be devoted to oil spill protection.

We have found, in general, that industry and business does not invest their money unless they think it is a pretty sound venture, and that there is a good pay-off at the end. We think this is another example of the vitality of the Sea Grant Program.

The third point is that the program provides a large return on federal investment. As you probably know, there has to be a matching of dollars other than federal funds for the dollars that come in the Sea Grant Program. Sometimes this matching falls into disfavor or a myth grows up that those are not real dollars. That is not true. The Sea Grant Program nationally is over-

matched. For example, at our university it is over-matched by two-and-a-half times what is required. But those are real dollars. They are not just fake dollars that we are putting into proposals. They are real dollars, because we have to be audited on them and we realize this. So there is an over-matching of the federal dollars.

The fourth point is how the program stimulates innovation. For example, our university has had eleven patents issued to its researchers and we currently have twenty-three more that are pending. It just is not the Sea Grant Program alone that has done this. We have a very imaginative and very positive incentive plan at the University of Delaware to encourage people to file for patents, and part of that is financial reward. But nevertheless, it is the Sea Grant Program that has made this possible.

The fifth point is that I believe that the best investment that we can make is to increase the support for the Sea Grant Program. I would characterize what we have done in the past as sort of getting organized, and now what we have to do is really produce. We have to grow. We have to make sure these research results which are available are really out in the marketplace increasing the wealth of the country and the benefit of the citizenry.

So I urge serious consideration of an additional $7.8 million for the Sea Grant Program. This, as you know, has been recommended by the Sea Grant Association and also the National Land Grant and State University association.

The sixth and final point is I think the most important one. It is that I believe that the Sea Grant Program is creating new wealth for our country and that this has only begun and will accelerate in the near future. Therefore, you might call it anti-inflationary. I think we have done a magnificent job in our country of redistributing wealth, shuffling wealth around. But for many years we really have not created new wealth. And that is always what saved us, some break-through that has created a new source of wealth. I believe the Sea Grant Program is doing this. It is doing this by the things I have been talking about—the new inventions, new processes, new products. It also does it by improving the processes and the way we have done things in the past. This is my last and final point. It creates new wealth and I think that is one of the most important things.

Now, then, the other thing that occurs in the Sea Grant is through the Marine Advisory Service. It takes all these things and makes sure it gets back to the people and right into the economy and right into the living of the citizens. That completes the circle.

Those are my six points. We would be pleased if you have any questions.

Mr. HIGHTOWER. Mr. Alexander?

Mr. ALEXANDER. Thank you, Mr. Chairman.

Doctor, thank you for appearing here. I don't think you will find this committee looking with disfavor upon the Sea Grant Program. We are knowledgeable of it. In fact, I personally have had direct contact with your own Dr. Gaither, who has some grand plans for organizing the Atlantic coast states, or the offshore areas of the Atlantic coast states into an entity which could be administered for the purposes of research and development. We don't get to talk very much, but when we do it seems to be very productive.

Dr. TRABANT. We sometimes refer to that as the fifty-first state.

Mr. ALEXANDER. I thought that was Manhattan Island. But nonetheless, we appreciate the contribution that the Sea Grant Program has made to this country, and we look forward to continuing it and reaping the benefits from it.

Dr. TRABANT. Thank you.

Mr. HIGHTOWER. Mr. O'Brien?

Mr. O'BRIEN. Doctor, with respect to the $7.9 million, would you add this to the budget?

Dr. TRABANT. That is correct.

Mr. O'BRIEN. I might have missed something. Does the state and private enterprise contribute anything in the nature of matching funds?

Dr. TRABANT. Yes, they will have to be matched, and they will be.

Mr. O'BRIEN. So that for the $7.9 million, or for every dollar you get from us, you pick up another one elsewhere.

Dr. TRABANT. Yes, sir. At our university it is actually more than that.

Mr. O'BRIEN. Thank you, Doctor. I have no further questions.

Mr. HIGHTOWER. Dr. Trabant, thank you very much. We appreciate your being here today. We are grateful for this testimony. I apologize for the delay in hearing your testimony and hope it did not inconvenience you.

Dr. TRABANT. No, we like the opportunity to talk about it, sir.

TUESDAY, APRIL 1, 1980.

SMALL BUSINESS ADMINISTRATION

WITNESS

TERRY EVANS, VICE PRESIDENT OF EVANS FAMILY & CO., INC.

Mr. HIGHTOWER. Our next witness is Mrs. Terry Evans.

Mrs. Evans, Congressman Stewart McKinney of Connecticut has forwarded to the committee a letter of introduction for you, regretting he could not be here personally to present you. His letter will be placed in the record at this point.

[The letter follows:]

STEWART B. McKINNEY
4TH DISTRICT, CONNECTICUT

504 CANNON HOUSE OFFICE BUILDING
WASHINGTON, D.C. 20515
(202) 225-5541

Congress of the United States
House of Representatives
Washington, D.C. 20515

April 1, 1980

The Honorable Jack Hightower
Chairman
Subcommittee on State, Justice
Commerce, Judiciary
Committee on Appropriations
H310 Capitol
Washington D.C. 20515

Dear Mr. Chairman:

I am pleased and honored to bring to your attention that Mrs. Therese M. Evans, a Stamford resident, and vice president of Evans Family and Company Inc., will be testifying before your Subcommittee today. Mrs. Evans is a member of American Women for Economic Development (A.W.E.D.) and will be speaking in support of appropriations for the Women in Enterprise Program.

Mr. Chairman, the city of Stamford is a prime example of the increasing growth of business opportunities in our cities. Mrs. Evans and her work are also exemplary in promoting employment for women in the continuously evolving business field. Her knowledge and expertise on the subject will undoubtedly provide your hearings with valuable information. I appreciate your allowing her to testify.

Sincerely,

Stewart B. McKinney, M.C.

SBM:lh/pr

Mr. HIGHTOWER. We will be happy to hear your testimony at this time.

Mrs. EVANS. Thank you, Mr. Chairman.

I am delighted to be here today. I am really excited to give you my own personal story.

I am here in support of the Small Business Administration. What I want to do is to tell you that we own a painting, wallpapering and restoration business in Stanford, Connecticut.

It was started by my two older sons, who started the business in order to have some money to go to college and help them through. They used to do it in the summertime. Once in a great while I used to help them and work for nothing for them, because I would end up giving them the money for school anyway.

In 1978, November, my husband, who was 31 years with a major corporation, had his job phased out. He was no longer with the company.

We had five of our seven children still living at home. Three of them were in college at the time. And I realized that something had to be done. So I went out to work full-time.

I had been a housewife for twenty-five years and the only other experience I had had was working with my sons. So I asked them if they would take me on as a partner in the business, which they did. But I was petrified. I was scared. And I didn't know exactly how to handle a job on my own. So they took me out and day by day they taught me how to paint and hang wallpaper and run the business basically on my own.

The only thing I was missing was the business experience that was required. And that is when I discovered an organization called AWED, affiliated with the Small Business Administration. It is called American Woman's Economic Development Corporation. I applied to that program and out of 400 women who were interviewed, thirty of us women qualified.

What they have done for me is they have given me confidence; they have given me a support system that I was not able to get any other way. They have taught me aspects of marketing. Through their help, I had the courage to get up and give a marketing report.

I have been able to implement a program of hiring sixteen college boys for the summer to work on our summer crew. I am working on hiring five older women to come in and work inside. My sons work on the outside. I only work on the inside of homes and businesses.

What AWED has also taught me is to do a business plan. And by doing the business plan, I now have long-range plans to go out and start a school to teach do-it-yourselfers to hang wallpaper and paint and do it the right way.

AWED has also taught me sales techniques. Other women in the AWED program and myself get together and we work out little workshops and we help to present ourselves to the customers so that we are able to handle customer resistance to our job or to our order.

The women in AWED in my group are divided into three groups: women in the retail business, the manufacturing business, and the service business. So I am exposed to so many other aspects of business, and it is useful to me.

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You see, if I may say so, women in this country are the most single asset of resource value to us in this country. What we are doing is we are going out and we are earning money. We are not taking money away from the economy. We are putting money into the economy. We are actually investing in the economy. And what we are asking you to do is to invest in us so that we can in return create jobs and create businesses.

God forbid if anything should happen to my husband I won't be completely lost. I will have a business. I won't have to go on welfare. I will be able to keep my family and support it.

The one thing that AWED also has done for me is it has put me in an environment where other women experience the same things I experience, and we are able to give each other the kind of supportive help that we need.

AWED has also taught me how to keep my tax records. They have also taught me to use the creative ideas that I have. Women entrepreneuers usually have many, many creative ideas, but they need a business education to go along with those creative ideas. And that is what the American Women for Economic Development organization has done for me.

We need your help and we need your support.

Mr. HIGHTOWER. Mrs. Evans, thank you very much. I think your testimony is far more valuable to the committee than any half-dozen bureaucrats might have given in support of such a program.

You made the statement that God forbid anything happened to your husband. I would say God forbid anything happened to you.

It is very helpful to us to have this kind of personal testimony from experience. And it is very supportive of the program.

We thank you for taking your time to come and give us this testimony.

Mrs. EVANS. Thank you, Mr. Chairman.

If I may just make one other remark. Of all the thirty women in my group, I know of no woman who is there because she wants to do something with her time. Those women are there because most of them are the sole supporters of their families. And that is, I think, a very important point.

Mr. HIGHTOWER. It certainly is.

Mrs. EVANS. I have enjoyed being here. Thank you for giving me this opportunity. I have a statement from AWED that I would like to have included in the record.

Mr. HIGHTOWER. We would be happy to include it at this point in the record.

[The statement from the American Woman's Economic Development Corporation follows:]

AMERICAN WOMAN'S ECONOMIC DEVELOPMENT CORPORATION / 1270 AVENUE OF AMERICAS, NEW YORK, NEW YORK 10020/ 397-0880

NEWS

CONTACT: Jane Randall
Director of Public
Information
(212) 397-0875

MODEL ENTREPRENEURIAL TRAINING PROGRAM HELPS WOMEN
LEARN "TO MIND THEIR OWN BUSINESS" SUCCESSFULLY

The American Woman's Economic Development Corporation (AWED), the first federally funded, non-profit organization providing entrepreneurial women with a management training and technical assistance program, began training a "pilot" group of 18 women in May, 1977. Now, 393 women business owners have participated in the free, year-long model program, which has been demonstrably successful. While government figures reveal that, nationally, one of every two businesses fail within two years and four of every five small businesses fail within five years, only three of AWED participants' businesses have declared bankruptcy.

AWED came into being in late 1976, when Beatrice A. Fitzpatrick approached the office of Technical Assistance, Economic Development Administration, U.S. Department of Commerce. She was armed with a sheaf of figures, such as the startling statistic that only 4.6% of small American businesses were owned by women. She also had a conviction that "American women are the greatest, single untapped human resource this country has." Her perseverance, organizational experience, and considerable powers of persuasion resulted in a grant of $124,000 for the establishment of a model program in New York City that would be offered free-of-charge to women applicants who were considering starting a business from scratch or were already owners of their own businesses and were encountering difficulties maintaining them.

AWED, itself, faced initial problems, such as recruiting expert interdisciplinary staff experienced in business; attracting the services of specialists from such prestigious Business Schools as Harvard, Wharton and New York University, as well as from major corporations and

small businesses; and identifying, precisely, the greatest needs of women entrepreneurs. In this latter area, the first groups of women entering the training program provided the answer: "management education and technical assistance." For this reason, much of the training and counseling emphasizes proper capitalization, a well-defined business plan, a sales development program, accounting procedures, banking relationships, merchandising, marketing, promotion, personnel, and overall management.

Applicants to the management training and assistance program are carefully screened for success potential -- the qualities, energy, experience required to be successful entrepreneurs -- and are assessed for compatability within a peer group. Applicants, whom it is determined would benefit substantially from the year-long program, receive 20 evening seminars; six "brainstorming" sessions, in which each woman's business is analyzed and critiqued; a one-to-two-day on-site business audit by an experienced management analyst; review of the participant's business plan; assistance from volunteer business advisors and counselors in special areas of need, and regular contact and evaluation of progress by a marketing expert and management analyst assigned to each group of approximately 30 women. And, recently, AWED has introduced supplementary programs and workshops, available to women in all training groups, as special and recurring needs are recognized.

A survey of business owners (completed September 15, 1979), substantiated the success of the program. Comparing current figures with those of the year prior to entering AWED's program and with 80% responding, AWED learned that net sales increased by over $17 million, 893 jobs were retained, 450 new jobs were created, 75% of the businesses had expanded or diversified, and that there was a direct relationship between the length of time a woman is in the program and the growth of her net sales volume. Taking into account, as well, the considerable new tax revenues generated by AWED participants, it must be concluded that AWED's training program is one of the most effective in the country.

After developing the training model, it became evident that there was also a need for counseling women business owners with specific problems and women planning to start a business who require feedback on the feasibility of their ideas. In May, 1978, AWED received funding from the Small Business Administration and, to-date, over 4,000 women have been counseled in sessions averaging 1½ hours. Business experts are carefully matched for knowledge in each entrepreneur's problem area, and individual appointments are then arranged. Recent research confirmed that 95% of women benefited from this free, one-to-one counseling service.

Largely as a result of the car card campaign -- WOMEN SHOULD LEARN TO MIND THEIR OWN BUSINESS -- AWED has added counselors and now has the capability of counseling 150 women each week, during regular business hours and several evenings.

According to AWED staff and advisors, women bring valuable assets to business ownership. They have good ideas for products and services, enthusiasm, imagination and dedication to quality, but they frequently lack formal business training, sufficient experience in the marketplace, and the necessary confidence, assertiveness and support system. AWED, with the aid of funds from EDA, SBA, corporations and foundations, constantly analyzes and addresses these needs, by systematically incorporating innovations into the training and by delivering new services as their importance is recognized.

Perhaps, even more significant, are the national implications developing from the AWED Model. Beatrice A. Fitzpatrick, Chief Executive Officer, projects that in the coming months and years, AWED will not only expand to other cities, as originally planned, but will also become a laboratory for research into the special problems and requirements of entrepreneurial women, with new approaches designed in response to the findings, and with data being disseminated nationwide. Ultimately, she foresees a vital national emergence of successful women entrepreneurs vastly expanding our economic strength.

# # #

TUESDAY, APRIL 1, 1980.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

WITNESSES

HON. CARL D. PERKINS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF KENTUCKY

WALTER MAY, PIKEVILLE, KY.

JOHN DUPUY, PIKE COUNTY CHAMBER OF COMMERCE

Mr. HIGHTOWER. We are very happy to have the very distinguished member of Congress from Kentucky, Mr. Carl Perkins, Chairman of the House Education and Labor Committee, with us at this time. Mr. Chairman, we will be delighted to hear from you.

STATEMENT OF REPRESENTATIVE CARL PERKINS

Mr. PERKINS. Mr. Chairman, it is a great pleasure for me to put in my first appearance before you. I had been before Congressman Slack on a few occasions before. I attended his funeral last week.

Mr. Chairman, East Kentucky has suffered as much as any other section to my way of thinking in the whole United States from floods over a period of years. We had the tremendous flood of 1957, 1963, and again another one in 1977 and another one in 1978, and then another one last year. SBA has loaned I guess over a quarter-of-a-billion or half-a-billion dollars in that area to small businesses over twenty-five, thirty years. Thirty years ago we had a better warning system than we have today. And that is my purpose in coming before you today, to get some additional funding.

Last year about $2 million was appropriated as a pilot project for a flash flood warning system for the Big Sandy Valley of Kentucky, West Virginia and Virginia. Hopefully this will soon be completed. There is, however, a serious flaw in the system. Although there will apparently be adequate data-gathering equipment when completed, the method of communicating the warnings is grossly inadequate. The inadequacy was demonstrated the morning of July 15, 1979, in the Peter Creek area of Pike County in my district and in Buchanan County, Virginia. Between 3:00 and 5:00 in the morning, the heavens opened and by 7:00 a.m. two people were dead and over $13 million in property damage. The flash flood warning was not put out until after 7:00 a.m. I have submitted a copy of the Weather Service Report to the Committee.

Funds previously appropriated should be sufficient to acquire the necessary data-gathering equipment. The problem is to communicate a warning in a timely manner. Obviously there should be close communication with radio and TV stations, as well as law enforcement and civil defense officials.

In a rural area one of the most efficient areas is the weather radio warning system. A receiver which works off household current costs $17.95 at Radio Shack, a battery-powered model runs $32.00. The radio will give out a beep when a warning is issued. Weather radio transmitters presently exist in the Big Sandy Valley

but they are woefully inadequate. They only go from mountaintop to mountaintop and do not reach into the valleys.

We are requesting about $600,000 to upgrade the weather radio system so that people in the Big Sandy Valley of Kentucky, West Virginia and Virginia will be able to take advantage of the weather radio service. It is not unusual to have someone living in a valley within a couple of miles of a transmitter tower and yet not be able to receive it. An appropriation in the neighborhood of $600,000 will help improve the communication system. Ultimately more funds may be needed, but this will be a positive step forward towards a complete flood warning system. This will provide a means of effectively disseminating data gathered by the new radar stations in Jackson, Kentucky and Beckley, West Virginia and by the automated rain gauges.

We have a couple of distinguished witnesses from my district who will be here shortly, Mr. Chairman, if you can bear with us.

Mr. HIGHTOWER. Yes, sir, Mr. Chairman. You just take the necessary time.

Mr. PERKINS. We need this money. Mr. Slack understood the problem. Nobody better understands it in my judgment than Mr. Hightower. We have these problems that we all have to deal with that are beyond our control. We have got to protect the lives of the people.

Mr. HIGHTOWER. Mr. Chairman, I am just glad I live in a part of the world where we can see the clouds coming.

Mr. PERKINS. It gets mighty dark sometimes. We cannot anticipate how heavy that rain is going to fall in those narrow valleys.

Mr. HIGHTOWER. You have an entirely different situation.

Mr. PERKINS. Yes. Even in wide valleys you are not confronted with the problem we are confronted with. We have been working on this system now about two-and-a-half years. And we have it well under way.

The gentleman who was responsible in helping us get it started operates a radio station in Pikeville, Kentucky. He will be the first witness.

Mr. HIGHTOWER. Mr. May.

STATEMENT OF WALTER MAY

Mr. MAY. I am Walter May. I was born and raised in Pikeville, Kentucky.

We are located on the Levisa Fork of the Big Sandy River. I own and operate WPKE, a 1,000-watt AM station and WDHR, a 3,000-watt FM station. These radio stations are located atop Peach Orchard Mountain within the city limits of Pikeville. The two radio stations perform a lot of community services as well as local news, like during times of flooding. We have an auxiliary generator which enables us to stay on the air, even when we lose our source of commercial power. The people of the Big Sandy Valley have come to depend on these two stations to warn them during times of flooding.

Mr. Chairman, it will be difficult for me to describe the frustration that I feel when flooding is imminent. We have the means to

warn the people, but we cannot furnish them with any accurate information.

We have had a number of floods in this area, and the National Weather Service has been unable to give us any information that would be beneficial. When conditions appeared that flooding would occur, we would call the National Weather Service and they would either have no information to give or the information they did give would be ridiculous. For example, predicting the river would crest at 6 p.m. at 40 feet and we would be calling at 3 p.m. and the river would already be at 42 feet. We have felt it necessary to qualify any predictions of flooding that the National Weather Service would give us; such as after giving one of their predictions, we would say that past experience has taught us that the National Weather Service predictions are not to be depended on and that our best advice would be for people to go out and watch the river themselves and make their own decision as to how high the water would rise and at what time they should move their belongings.

During the last flood in April of 1977, I was the person who had the responsibility to warn the citizens of Pike County. But I did not believe there was going to be a flood and as a result my home was flooded with over six feet of water with a loss of all my personal belongings and a financial loss to me personally of over $70,000.

When the river starts to rise, I assign a man to watch a river gauge, which is nothing more than a series of sticks on the river bank. He gives hourly reports on the height of the river and the rate of rise. We cannot tell people with any certainty how high the water is going to come up. We can only inform them as to what it is doing at the present time. The National Weather Service has not known when the river would crest at Elkhorn City, which is another small town approximately twenty miles upstream from Pikeville. Even that little bit of information would have been valuable to us.

Mr. Chairman, I have taken it upon myself to try to find out why we have not received accurate information from the Weather Service. The problems seem to be these. The nearest weather radar to our area is located in Cincinnati, Ohio. This means that we are on the fringe and that the radar is not dependable. The National Weather Service has not had any automatic rain gauges located upstream from Pikeville. In the past they have considered Pikeville to be the headwaters of the Big Sandy River and have not attempted to find out what is going on upstream, when the truth of the matter is that the headwaters of the Big Sandy River are thirty miles upstream at the breaks of the Sandy. The National Weather Service is understaffed. Even if they had had the data, they did not have the necessary manpower to assimilate the information and come out with an accurate forecast. When I have made calls to the National Weather Service, I have found one person on duty and that person would be swamped.

Mr. Chairman, if the government would make a small investment in the equipment and manpower that it would take for a reasonable accurate flood warning system for the Big Sandy Valley, it would save the taxpayers hundreds of millions of dollars.

Most, if not all, of the personal property and merchandise of local businesses could have been saved if we could have warned

people of the April 1977 flood. Just think of all the money that the government could have saved in flood relief funds and personal income tax deductions that people received after the last flood. I am not asking you for anything that will cost this government money, but rather an investment that will save millions of dollars in property damage.

I am asking that the National Weather Service truly be a service to the people of the Big Sandy Valley. They have the knowledge and the expertise to do this job. But they must have the funds and the direction of Congress to get this project under way. Mr. Chairman, we are in the middle of the flood season now and while I am talking to you the people of Eastern Kentucky are uneasy. As I left this morning, driving to the airport, I noticed the Big Sandy River coming up. The people cannot sleep well at night for fear of another flood. It is a national disgrace to allow this situation to continue. There are many old people who live on fixed incomes that could not recuperate from another flood. I could go on and on about this problem and its possible solutions, but I feel that I have already taken too much of your time. I know there are others who would like to speak.

I would be more than glad to answer your questions.

Thank you very much.

Mr. HIGHTOWER. Thank you.

STATEMENT OF JOHN DUPUY

Mr. DUPUY. I am John Dupuy. Thank you very much for the opportunity to speak. I represent the Pike County Chamber of Commerce.

As Walter May has stated, we are here to ask for additional funds for completion of a reliable and accurate flood warning system for eastern Kentucky. Few areas of our country have been plagued by the kind of major flooding which has hit eastern Kentucky in the past 23 years. Thousands of people have been affected in some way by at least five major floods since 1957. One of the most recent was in Phelps, Kentucky and I think over 300 people lost their homes in that one. Many of these people have lost everything they have because there was little or no warning.

I am the manager of the East Kentucky Beverage Company, which is located five miles north of Pikeville, Kentucky. On April 4th and 5th, 1977, when we had five feet of water in our buildings, the only thing we had time to save was our truck fleet. We lost our computer and all its magnetic files and all our office equipment and records. Our plant equipment was damaged to the extent that it took over a year to get it running properly again. Over one hundred electric motors had to be replaced. Had we been given a few hours warning, we could have saved a great deal of what we lost simply by moving it to higher ground. My company suffered a loss of nearly half a million dollars and most of this loss could have been prevented had we had proper warning and an accurate forecast of the flood's crest. This is the third flood our company had suffered, and it was the same each time, no warning.

In my neighborhood, 40 homes were flooded, including my own. Most of these were two-story homes where belongings could have

been moved to the second floor had we had warning of what was coming. My wife did not realize what was happening until she saw the water in the backyard. Several of my neighbors escaped in boats.

I only relate these personal stories because they are true for hundreds of businesses and thousands of families in eastern Kentucky. With adequate warning, millions of dollars could have been saved during these floods. Even during years when we do not have these major floods we must live with the anxiety of not knowing what is going to happen. Several times each winter and spring, we suffer through many hours of uncertainty. We don't know whether to begin the huge job of moving our belongings to higher ground or to wait and see what is coming. It does little good to listen to local radio stations, because they are at the mercy of the National Weather Service and that service is not equipped to forecast floods in eastern Kentucky.

Several times on the evening of April 4th, 1977, the National Weather Service issued crest predictions which were completely out of reason. The only answer to our problem is a total flood warning and crest forecast system using automatic rain gauges and river gauges which report by radio along with mountain-top radio repeaters and a weather radar system in our area.

I live about one mile or less from the local National Weather Service transmitter. There are times when I can't even pick the thing up in my home. It is up on a mountain above our home. This points up, you know I live a mile from it and many of our citizens live 15, 20 or 30 miles down in the valleys away from these things. So the system is great, but it will never work perfectly until we have these additional radio broadcast transmitters to get the warning out to the people.

We appreciate very much the opportunity to present this testimony to you this afternoon.

Mr. HIGHTOWER. Thank you. Mr. May, didn't you testify before this committee last year?

Mr. MAY. Yes, sir.

Mr. DUPUY. Both of us did.

Mr. HIGHTOWER. I apologize to you. I didn't remember you, but I did remember Mr. May's testimony. We certainly are glad to have the benefit of the personal experience that you tell us about. I can imagine how demoralizing it is to a community to be in constant fear of the kind of destruction that you have experienced. It is certainly very proper that the Weather Bureau try to be responsive in giving you the kind of warning that you must have.

Thank you again. If you have written testimony that you would like to leave, we will include that in the record.

[Mr. Dupuy's prepared statement follows:]

PREPARED STATEMENT OF JOHN DUPUY

I am John Dupuy and I represent the Pike County Chamber of Commerce. We are here today to ask your support for additional funds for completion of a reliable and accurate flood warning system for Eastern Kentucky. Few areas of this country have been plagued by the kind of major flooding which has hit Eastern Kentucky in the past 23 years. Thousands of people have been affected in some way by at least five major floods since 1957. Many of these thousands have lost everything they have because there was little or no warning.

I am the manager of the East Kentucky Beverage Co. which is located five miles north of Pikeville, Kentucky. On April 4th and 5th, 1977, when we had five feet of water in our buildings, the only thing we had time to save was our truck fleet. We lost our computer and all its magnetic files; all our office equipment and records. Our plant equipment was damaged to the extent that it took over a year to get it running again. Over one hundred electric motors had to be replaced. Had we been given a few hours warning, we could have saved a great deal of what we lost, simply by moving it to higher ground. My company suffered a loss of nearly ½ million dollars, and most of this loss could have been prevented had we had proper warning and an accurate forecast of the flood's crest. This was the third flood our company had suffered, and it was the same each time—no warning.

In my neighborhood, forty homes were flooded including my own. Most of these were two story homes where belongings could have been moved to the second floor, had we had warning of what was coming. My wife did not realize what was happening until she saw the flood water in the back yard. Several of my neighbors escaped in boats.

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Even during years when we do not have major floods, we must live with the anxiety of not knowing what to expect. Several times each winter and spring we suffer through many hours of uncertainty not knowing whether to begin the huge job of moving our belongings to higher ground or to wait and see what is coming. It does little good to listen to local radio stations, because they are at the mercy of the National Weather Service and that service is not equipped to forecast floods in Eastern Kentucky. Several times on the evening of April 4th, 1977, the National Weather Service issued crest preditions several feet below the actual river level at that time.

The only answer to our problem is a total flood warning, and crest forecast system using automatic rain gauges and river gauges which report by radio along with mountain top radio repeaters and a weather radar system in our area. All residents of Eastern Kentucky are hopeful that you will see that this system is in operation as soon as possible. The United States will depend to a large degree, on our area for its energy production in the future, and we must depend upon you here in Washington to secure our future. With an accurate flood warning system our future in Eastern Kentucky will be much brighter. Thank you for this opportunity to speak.

Mr. HIGHTOWER. Mr. Chairman, thank you very much.

Mr. PERKINS. Thank you.

TUESDAY, APRIL 1, 1980.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

WITNESSES

HON. JOHN B. BREAUX, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF LOUISIANA

HON. EDWIN B. FORSYTHE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

HON. JOHN M. MURPHY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. HIGHTOWER. Mr. Breaux, would you come forward at this time, please.

Mr. BREAUX. Thank you, Mr. Chairman, members. You have copies of the written testimony we would like to submit for the record. I have a summary to present at this time.

Mr. HIGHTOWER. The entire statement will appear in the record at this point.

[Mr. Breaux's and Mr. Forsythe's statements follow:]

JOINT STATEMENT
OF THE
HONORABLE JOHN B. BREAUX, CHAIRMAN
AND THE
HONORABLE EDWIN B. FORSYTHE, RANKING MINORITY MEMBER
OF THE
SUBCOMMITTEE ON FISHERIES AND WILDLIFE
CONSERVATION AND THE ENVIRONMENT
BEFORE THE
SUBCOMMITTEE ON STATE, JUSTICE, COMMERCE, JUDICIARY
OF THE
COMMITTEE ON APPROPRIATIONS

APRIL 1, 1980

MR. CHAIRMAN, THE PASSAGE OF THE FISHERY CONSERVATION AND MANAGEMENT ACT MARKED THE DAWNING OF A NEW ERA IN FISHERIES CONSERVATION. THE ACT WAS PASSED BECAUSE OF THE NEED TO TAKE ACTION TO CONSERVE AND MANAGE THE VAST FISHERY RESOURCES FOUND OFF THE COASTS OF THE UNITED STATES. AS A CONSEQUENCE OF EVER-INCREASING FISHING PRESSURE, LARGELY FOREIGN, AND A LACK OF EFFECTIVE CONTROLS, THE SURVIVAL OF MANY STOCKS OF FISH WAS THREATENED PRIOR TO THE PASSAGE OF THE FCMA. THE DECLINE OF THESE FISHERY RESOURCES RESULTED IN SEVERE ECONOMIC DAMAGE TO MANY COASTAL AREAS WHICH WERE CRITICALLY DEPENDENT UPON THE FISHING INDUSTRY AS A MAJOR SOURCE OF EMPLOYMENT.

THE SUCCESS OF THE FCMA IN PREVENTING OVERFISHING AND THUS CONSERVING OUR RENEWABLE FISHERY RESOURCES IS REFLECTED BY THE FACT THAT THE FOREIGN CATCH WITHIN THE FISHERY CONSERVATION ZONE HAS BEEN REDUCED FROM 2.7 MILLION METRIC TONS IN 1976 TO UNDER 1.8 MILLION METRIC TONS IN 1978. IN THE SAME PERIOD, THE NUMBER OF FOREIGN FISHING VESSELS OPERATING IN THE U.S. ZONE HAS BEEN REDUCED FROM 2500 TO APPROXIMATELY 700. FISHERY MANAGEMENT PLANS HAVE BEEN DEVELOPED FOR NUMEROUS FISHERIES.

In addition to providing for the rational management of our fishery resources, the Act established priority access for U.S. fishermen, thereby creating a basically sound economic foundation for the development of the U.S. fishing industry. Unfortunately, the U.S. share of the total commercial harvest within the fishery conservation zone has increased from only 48% in 1976 to 52% in 1978. The processing of this harvest has also increased only slightly.

While 20% of the world's available fishery resources, approximately 20 million metric tons, on an annual sustained basis, are found within the U.S. fishery conservation zone, and while the U.S. consumes 7.5% of the world's fish harvest, we take only 4% of the world's catch. In 1978, the U.S. exported $900 million in fishery products. In the same year, we imported $3.1 billion of fish, shellfish, and associated products. This fisheries trade deficit, in excess of $2 billion, represents almost 10% of the total U.S. balance-of-payments deficit. The strain placed upon the U.S. dollar by this deficit adds to the rampaging inflation which severely affects all Americans.

IF THE U.S. FISHERY RESOURCE COULD BE DEVELOPED, IT IS ESTIMATED THAT, IN THE NEXT DECADE, MORE THAN 40,000 JOBS WOULD BE CREATED, MORE THAN $1 BILLION PER YEAR WOULD BE ADDED TO THE U.S. ECONOMY, AND THE U.S. TRADE DEFICIT WOULD BE REDUCED BY $1.7 BILLION PER YEAR -- AND WE SUBMIT THIS IS JUST THE BEGINNING. A COMPREHENSIVE FISHERY DEVELOPMENT PROGRAM WILL EVENTUALLY CONVERT THE U.S. FROM A NET IMPORTER TO A NET EXPORTER OF FISHERIES PRODUCTS. FURTHER, IT IS ESTIMATED THAT FOR EVERY $1 MILLION OF FISH LANDINGS, 113 JOBS WILL BE CREATED. COASTAL COMMUNITIES THAT HAVE SEEN THEIR ECONOMIES SUFFER FROM FOREIGN EXPLOITATION OF U.S. FISHERIES WILL ENJOY A SWIFT REVIVAL, BECAUSE OF EFFORTS MADE TO DEVELOP THE U.S. FISHING INDUSTRY.

MR. CHAIRMAN, WE ARE HERE TODAY TO ASK FOR ADDITIONAL FUNDING FOR THE FISHERY CONSERVATION AND MANAGEMENT ACT. BUT WE ARE ALSO HERE TO REQUEST A BUDGET CUT SO THAT THERE IS NO OVERALL INCREASE. INDEED, WE WILL SEEK AN INCREASE IN FEES PAID BY FOREIGN FISHERMEN SO THAT ADDITIONAL FUNDS WILL BE AVAILABLE TO THE U.S. TREASURY. WE HAVE REVIEWED THE POTENTIAL BENEFITS TO BE DERIVED FROM DEVELOPING THE U.S. FISHING INDUSTRY IN ORDER TO PLACE OUR REQUEST IN PERSPECTIVE -- FOR THERE CAN BE NO FISHERY DEVELOPMENT IF THERE IS NO EFFECTIVE CONSERVATION. TO PRESERVE FISHERY RESOURCES FOR THE USE OF PRESENT AND FUTURE GENERATIONS OF AMERICANS, IT IS CRITICALLY IMPORTANT THAT WE ACT NOW TO CONSERVE AND MANAGE THIS RENEWABLE RESOURCE. THE ESSENTIAL ELEMENTS OF THE FISHERY CONSERVATION AND MANAGEMENT ACT ARE THE PREPARATION AND IMPLEMENTATION OF MANAGEMENT PLANS FOR THE FISHERIES FOUND WITHIN OUR 200-MILE ZONE. TODAY, 12

MANAGEMENT PLANS HAVE BEEN APPROVED AND IMPLEMENTED. THERE ARE AN ADDITIONAL 8 UNDER FINAL REVIEW AND 8 MORE ARE IN SOME STAGE OF PREPARATION. IT IS EXPECTED THAT BY THE END OF 1980 23 PLANS WILL BE IN EFFECT. IN 1981 AND 1982, AN ADDITIONAL 33 PLANS ARE EXPECTED TO BE IN PLACE. EVENTUALLY, THERE WILL BE 65 PLANS COVERING THE APPROXIMATELY 80 FISHERIES THAT HAVE BEEN IDENTIFIED AS BEING WITHIN THE U.S. FISHERY CONSERVATION ZONE.

MR. CHAIRMAN, IN THE ABSENCE OF EFFECTIVE FISHERY MANAGEMENT PLANS, THE UNITED STATES CANNOT CONSERVE AND MANAGE OUR DIVERSE FISHERY RESOURCES. HOWEVER, IT IS IMPORTANT TO RECOGNIZE THAT THE DEVELOPMENT OF FISHERY MANAGEMENT PLANS REQUIRES DATA. KNOWLEDGE OF THE SIZE OF THE RESOURCE, ITS REPRODUCTION RATE, THE SPAWNING AREA, THE AGE AT SEXUAL MATURITY, THE INTER-RELATIONSHIP OF ONE SPECIES TO ANOTHER IN THE FOOD CHAIN, THE SPECIES' GROWTH RATE, AND ITS MORTALITY RATE ARE ESSENTIAL TO EFFECTIVE MANAGEMENT. UNFORTUNATELY, THIS INFORMATION IS SADLY LACKING FOR MOST SPECIES. THE INFORMATION IS LACKING BECAUSE, PRIOR TO 1976, THERE WAS LITTLE DEMAND FOR IT. NOW THAT THE FISHERMEN ARE TAKING ADVANTAGE OF THE ECONOMIC PREFERENCE GIVEN THEM BY THE FCMA IN EVER-INCREASING NUMBERS AND PRESSURE ON THE RESOURCE INCREASES, WE MUST HAVE ACCURATE FISHERIES MANAGEMENT DATA TO CONSERVE THE RESOURCE.

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We have carefully examined the National Marine Fisheries Service's Fiscal Year 1981 FCMA research budget and have come to the conclusion that the funding level provided for is inadequate. The President's current budget request, which is contained in the Marine Resources, Monitoring, Assessment, and Prediction Program (MARMAP), deletes $546,000.

It is our view that instead of being cut, this program should be increased. We urge the Committee to restore $1.1 million for resource surveys. The funds would be used to assess fishery stock size and to develop other biological information which will enable fish managers to determine what the appropriate level of harvest should be. Without this information, it is possible to establish a harvest which is too high, thus seriously affecting the long-term viability of the species. In the alternative, it is possible to establish a harvest level which is needlessly low, thereby artificially restricting the growth potential of the U.S. fishing industry. We propose that the $1.1 million be distributed as follows: $250,000 would be used in the New England area for research on groundfish, sea scallops, and surf clams. Approximately $500,000 would be used in the Southeast for research on spiny lobster, coral, shallow and deepwater reef fish, and coastal pelagic species. In point of fact, Mr. Chairman, there is virtually no research program currently ongoing to develop stock size information on these Southeastern species. Finally, approximately $350,000 would be used in the Pacific and Western Pacific Regions for research on lobster, sea mounts and bottomfish.

HAVING DEVELOPED THE RAW BIOLOGICAL INFORMATION, IT IS NECESSARY TO ANALYZE THE INFORMATION IN ORDER TO DETERMINE ITS IMPLICATIONS FOR PURPOSES OF FISHERIES MANAGEMENT. WITH THE INCREASING NUMBER OF FISHERIES MANAGEMENT PLANS, THE DATA ANALYSIS NEEDS OF THE NATIONAL MARINE FISHERIES SERVICE WILL INCREASE COMMENSURATELY. TO PROVIDE AN ADEQUATE DATA ANALYSIS AND MODELING SYSTEM, THE NATIONAL MARINE FISHERIES SERVICE SHOULD HAVE AN ADDITIONAL $1.9 MILLION AND SIX POSITIONS IN FISCAL YEAR 1981. SIX HUNDRED THOUSAND DOLLARS OF THESE FUNDS WOULD BE USED IN THE PACIFIC NORTHWEST FOR DATA ANALYSIS ON SALMON, HALIBUT, CRABS, SHRIMP, CAPELIN, AND FLATHEAD SOLE. TWO HUNDRED THOUSAND DOLLARS WOULD BE ALLOCATED TO THE SOUTHWEST FOR WORK ON ANCHOVIES, SARDINES, PACIFIC MACKEREL, JACK MACKEREL, SALMON, TUNA, AND SQUID. IN THE NORTHEAST, $600,000 WOULD BE USED FOR DATA ANALYSIS AND MODELING ON SILVER HAKE, HERRING, SQUID AND GROUNDFISH. FINALLY, $500,000 WOULD BE MADE AVAILABLE IN THE SOUTHEAST FOR WORK ON MACKEREL, SNAPPER, GROUPER, SHRIMP AND COASTAL PELAGIC SPECIES.

MR. CHAIRMAN, WE RECOGNIZE THE NEED FOR FISCAL RESTRAINT GIVEN THE CURRENT STATE OF THE ECONOMY. EVEN THOUGH WE HAVE ALREADY OUTLINED $3 MILLION IN INCREASES THAT WE THINK ARE NEEDED, WE WILL LIMIT OUR REQUEST FOR INCREASES TO $2.25 MILLION, SINCE THAT IS THE AMOUNT WE ARE PREPARED TO SEE CUT IN ANOTHER AREA. THE ADDITIONAL $2.25 MILLION IS $1.1 MILLION FOR RESOURCE SURVEYS AND $1.15 MILLION FOR DATA ANALYSIS.

If the funds were available, however, we see additional needs of $2.2 million. These monies would be used for economic and social data analysis, new survey techniques, and additional U.S. observers.

A basic concept in the Fishery Conservation and Management Act is that fisheries managers should determine the maximum amount of fish which can be taken without biologically harming the species, the maximum sustainable yield, and should reduce that amount by taking into account appropriate biological, economic and social factors in order to determine the optimum yield for the fishery. The relevant economic and social factors relate primarily to the impact of different harvest levels on the economies of the areas where the fish are harvested. Obviously, different harvest levels will result in different employment and income levels. To assess these impacts, we see a need for an additional $800,000 in fiscal year 1981. Approximately $600,000 of these funds would be used in the Southeast and Gulf Region. In this area fisheries have not been as major a factor in the economies of the states and the data collection system has not been as broad as it has in other sections of the country. The remaining $200,000 would be used in the Southwest area, primarily in Hawaii and the Western Pacific.

If funds were available, it would be important to use an additional $700,000 for the development of new biological survey techniques. Currently, information on stock size and other

BIOLOGICAL INFORMATION IS DEVELOPED FROM NOAA RESEARCH VESSELS WHICH ENGAGE IN FISHING OPERATIONS. IN AN ENERGY-LIMITED ERA, IT MAKES LITTLE SENSE TO USE AN EXTREMELY ENERGY-INTENSIVE AND RELATIVELY OUTDATED SURVEY TECHNIQUE. AS AN ALTERNATIVE, THE DEPARTMENT OF DEFENSE HAS DEVELOPED AN ACOUSTICAL AND SONAR SURVEY TECHNOLOGY WHICH THE NATIONAL MARINE FISHERIES SERVICE IS ATTEMPTING TO ADAPT TO FISHERIES SURVEYS. THE TECHNOLOGY EXISTS AT THE PRESENT TIME AND WHAT WE ARE TALKING ABOUT IS THE APPLICATION OF THAT TECHNOLOGY.

FINALLY, IF THERE WERE ADEQUATE FUNDS, WE WOULD URGE THAT THIS COMMITTEE INCREASE THE BUDGET OF THE NATIONAL MARINE FISHERIES SERVICE BY APPROXIMATELY $700,000 IN ORDER TO SUPPLEMENT THE NUMBER OF U.S. OBSERVERS PLACED ABOARD FOREIGN FISHING VESSELS. CURRENTLY, THE U.S. OBSERVERS COVER APPROXIMATELY 14% OF THE FOREIGN FISHING EFFORT WITHIN OUR ZONE. THE ADDITIONAL FUNDS WOULD PERMIT A 25% COVERAGE. WE BELIEVE, AS DOES THE U.S. FISHING INDUSTRY, THAT IT IS CRITICALLY IMPORTANT THAT THE UNITED STATES INCREASE ITS OBSERVER PROGRAM, IN ORDER TO PREVENT OVERFISHING BY FOREIGN VESSELS. MANY U.S. OBSERVERS WHEN BOARDING FOREIGN VESSELS HAVE FOUND SERIOUS UNDERREPORTING OF THE FOREIGN HARVEST. IN FACT, FOREIGN VESSELS MAY BE UNDERREPORTING THE LEVEL OF THEIR CATCH BY AS MUCH AS 30%. UNDERREPORTING WILL PERMIT FOREIGN VESSELS TO HARVEST MORE THAN THEIR ALLOCATION AND THE MAGNITUDE OF THIS UNDERREPORTING COULD RESULT IN A SERIOUS OVERHARVEST. WE BELIEVE THAT INCREASED ENFORCEMENT IS A HIGH PRIORITY ITEM IF THE PURPOSES OF THE FISHERY CONSERVATION AND MANAGEMENT ACT ARE TO BE CARRIED OUT. WE WOULD NOTE THAT AN INCREASE IN THIS LINE ITEM WOULD REPRESENT NO EXPENSE TO THE TAXPAYERS, BECAUSE THE FOREIGN FLEETS ARE REQUIRED TO REIMBURSE THE UNITED STATES FOR THE COST OF THE OBSERVER PROGRAM. WHILE THE PROGRAM IS RUN BY APPROPRIATED FUNDS, THE TREASURY IS REIMBURSED.

MR. CHAIRMAN, AS WE STATED AT THE OUTSET, WE ARE NOT BEFORE YOU TODAY SIMPLY REQUESTING MORE APPROPRIATIONS. WE HAVE GIVEN A LOT OF THOUGHT TO THE VITALLY IMPORTANT QUESTION OF HOW TO BALANCE THE BUDGET IN FISCAL YEAR 1981, A MATTER UPON WHICH THE PRESIDENT IS TAKING ACTION. VERY SUBSTANTIAL CUTS ARE REQUIRED, SO IT IS ESSENTIAL THAT WE CONCENTRATE ON REDUCING MAJOR PROGRAMS, EVEN THOUGH THE RESULTING SACRIFICES WILL BE PAINFUL. IF THERE ARE TO BE HARDSHIPS RESULTING FROM CUT-BACKS OF MAJOR PROGRAMS, OUR PEOPLE SHOULD AT LEAST HAVE THE ASSURANCE THAT SMALLER PROGRAMS WHICH MAY BE CURTAILED WITHOUT REAL SACRIFICE WILL NOT ESCAPE THIS BUDGET EXERCISE.

WE ARE REVIEWING THE PROGRAMS THAT FALL WITHIN THE JURISDICTION OF THE SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION AND THE ENVIRONMENT. ONE PROGRAM THAT, IN OUR VIEW, CLEARLY SHOULD NOT BE FUNDED IN FISCAL YEAR 1981 IS MARINE SANCTUARIES. A $2.25 MILLION SAVING COULD BE REALIZED.

TITLE III OF THE MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT OF 1972 ESTABLISHED THE MARINE SANCTUARIES PROGRAM FOR THE PURPOSE OF PRESERVING OR RESTORING MARINE AREAS FOR THEIR CONSERVATION, RECREATIONAL, ECOLOGICAL OR ESTHETIC VALUES. AREAS ARE TO BE DESIGNATED BY THE SECRETARY OF COMMERCE FOLLOWING INTERAGENCY COORDINATION AND WITH THE APPROVAL OF THE PRESIDENT. THE SECRETARY MAY, THROUGH

REGULATIONS THAT ARE REASONABLE AND NECESSARY TO ACHIEVE THE PURPOSE OF TITLE III, RESTRICT OR PROHIBIT, CONSISTENT WITH INTERNATIONAL LAW, ANY ACTIVITY IN A MARINE SANCTUARY.

WHEN TITLE III WAS ENACTED, FEDERAL PROGRAMS DESIGNED TO PROTECT THE ENVIRONMENT WERE IN THEIR INFANCY AND MANY OF THE ENVIRONMENTAL LAWS THAT ARE NOW ON THE BOOKS WERE YET TO BE ENACTED. TITLE III WAS VIEWED BY THE CONGRESS AS A MEANS TO PROTECT SPECIAL MARINE AREAS, WHILE PERMITTING ENVIRONMENTALLY COMPATIBLE MULTIPLE USES.

TODAY, FEDERAL MEASURES THAT PROVIDE FOR PROTECTION OF THE MARINE ENVIRONMENT INCLUDE:

(1) NATIONAL ENVIRONMENTAL POLICY ACT;
(2) ENDANGERED SPECIES ACT;
(3) MARINE MAMMAL PROTECTION ACT;
(4) COASTAL ZONE MANAGEMENT ACT;
(5) ANTIQUITIES ACT AND ABANDONED PROPERTY ACT;
(6) EXECUTIVE ORDER 11593 (MAY 31, 1979);
(7) OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS OF 1978;
(8) CLEAN WATER ACT;
(9) RIVERS AND HARBORS ACT;
(10) OIL POLLUTION ACT;
(11) DEEP WATER PORT ACT;
(12) OCEAN DUMPING ACT (TITLE I);

(13) Ports and Waterways Safety Act;

(14) Port and Tanker Safety Act;

(15) Fishery Conservation and Management Act;

(16) Lacey Act;

(17) Black Bass Act; and

(18) National Historic Preservation Act.

There are also numerous State laws and international conventions that are directed at protection of the ocean environment.

Potential threats that are specifically addressed by Federal laws are:

(1) Any actions of the Federal Government that have a significant effect on the human environment (NEPA);

(2) Hunting, harming or capturing endangered or threatened species and actions by the Federal Government that may jeopardize them or their critical habitats and any condition of such species that requires the attention of the Federal Government for their restoration;

(3) Harassing, hunting, capturing, killing, or intentionally or negligently disturbing or molesting marine mammals and any condition of marine mammals that requires the protection of rookeries, mating grounds and areas of similar significance (Marine Mammal Protection Act);

(4) Importation of, or interstate commerce in, certain

SPECIES (LACEY ACT, BLACK BASS ACT);

(5) APPROPRIATION OF ANTIQUITIES, INSOFAR AS THAT ACTIVITY MAY BE REGULATED BY COASTAL NATIONS UNDER INTERNATIONAL LAW (ANTIQUITIES ACT, ABANDONED PROPERTY ACT, NATIONAL HISTORIC PRESERVATION ACT AND EXECUTIVE ORDER 11593);

(6) OIL AND GAS DEVELOPMENT (OCS LANDS ACT AMENDMENTS OF 1973 AND CLEAN WATER ACT);

(7) DISCHARGES OF OIL AND HAZARDOUS WASTES (CLEAN WATER ACT, OIL POLLUTION ACT, RIVERS AND HARBORS ACT, INTERNATIONAL REGULATIONS);

(8) CONSTRUCTION AND OPERATION OF DEEPWATER PORTS (DEEP WATER PORT ACT);

(9) EXCAVATION, FILLING OR OTHER MODIFICATIONS OF NAVIGABLE WATERS (RIVERS AND HARBORS ACT);

(10) CONSTRUCTION OF STRUCTURES (RIVERS AND HARBORS ACT AND OUTER CONTINENTAL SHELF LANDS ACT);

(11) DISPOSAL OF DREDGE OR FILL MATERIAL (CLEAN WATER ACT AND TITLE I, OCEAN DUMPING ACT);

(12) DUMPING (TITLE I, OCEAN DUMPING ACT, INTERNATIONAL REGULATIONS);

(13) RUN-OFF OR OVERFLOW FROM CONTAINED LAND (CLEAN WATER ACT);

(14) VESSEL TRAFFIC (DEEP WATER PORT ACT, PORTS AND WATERWAYS SAFETY ACT, AS AMENDED BY THE PORT AND TANKER SAFETY ACT, INTERNATIONAL REGULATIONS);

(15) FISHING AND CORAL COLLECTION (FISHERY CONSERVATION

AND MANAGEMENT ACT); AND

(16) ANCHORING (VARIETY OF FEDERAL STATUTES).

SPECIFICALLY PROTECTED ARE:

(1) ENDANGERED AND THREATENED SPECIES (ENDANGERED SPECIES ACT);

(2) MARINE MAMMALS (MARINE MAMMAL PROTECTION ACT);

(3) CERTAIN OTHER SPECIES (LACEY ACT, BLACK BASS ACT);

(4) FISH (FISHERY CONSERVATION AND MANAGEMENT ACT);

(5) ANTIQUITIES, CONSISTENT WITH INTERNATIONAL LAW (ANTIQUITIES ACT, ABANDONED PROPERTY ACT, NATIONAL HISTORIC PRESERVATION ACT AND EXECUTIVE ORDER 11593);

(6) THE COASTAL ZONE, INCLUDING SPECIFICALLY, ESTUARIES AND ISLANDS (COASTAL ZONE MANAGEMENT ACT);

(7) "CRITICAL AREAS" (TITLE I, OCEAN DUMPING ACT);

(8) "SHELLFISH BEDS AND FISHERY AREAS...WILDLIFE OR RECREATIONAL AREAS" (CLEAN WATER ACT);

(9) "CRITICAL HABITATS" (ENDANGERED SPECIES ACT);

(10) "HABITATS DETERMINED TO BE NECESSARY FOR THE LIFE FUNCTIONS OF THE STOCK(S)" (REGULATIONS PURSUANT TO THE FISHERY CONSERVATION AND MANAGEMENT ACT);

(11) MARINE MAMMAL ROOKERIES, MATING GROUNDS, AND THE LIKE (MARINE MAMMAL PROTECTION ACT);

(12) "SPECIAL AREAS" (INTERNATIONAL REGULATIONS); AND

(13) "AREAS TO BE AVOIDED" (INTERNATIONAL REGULATIONS).

WE BELIEVE THAT WITH ALL OF THE FEDERAL ATTENTION TO PROTECTION OF THE MARINE ENVIRONMENT, WE DO NOT NEED TO FUND TITLE III, MARINE SANCTUARIES IN FISCAL YEAR 1981. THE FACT THAT, SINCE 1972, ONLY TWO INSIGNIFICANT SANCTUARIES HAVE BEEN ESTABLISHED IS ELOQUENT TESTIMONY THAT MARINE SANCTUARIES ARE NOT ESSENTIAL.

ADMITTEDLY, THERE ARE THOSE WHO SUPPORT THE PROGRAM. THEY ARGUE THAT IT IS COMPREHENSIVE IN SCOPE AND CAN RESPOND TO IMPORTANT PROBLEMS WHICH OTHER FEDERAL LAWS DO NOT ADDRESS. HOWEVER, NO FEDERAL LAW CAN BE COMPREHENSIVE, BECAUSE INTERNATIONAL LAW LIMITS UNITED STATES JURISDICTION IN RELATION TO FOREIGN NAVIGATION, AS WELL AS FOREIGN ACTIVITIES ON THE SEABED BEYOND THE TERRITORIAL SEA. MOREOVER, TITLE III IS NOT INTENDED TO BE COMPREHENSIVE. EVEN SO FAR AS UNITED STATES CITIZENS ARE CONCERNED, REGULATIONS MAY ONLY BE PROMULGATED FOR CERTAIN, DEFINED PURPOSES. WHEN ASKED AT A RECENT HEARING WHAT TITLE III OFFERED THAT OTHER AUTHORITIES DID NOT, AN ADMINISTRATION WITNESS CITED PROTECTION OF CORAL AND STARFISH. BUT THESE ARE RESOURCES SUBJECT TO STATE AUTHORITY IN THE TERRITORIAL SEA AND TO FEDERAL AUTHORITY PURSUANT TO THE FISHERY CONSERVATION AND MANAGEMENT ACT IN THE FISHERY CONSERVATION ZONE WHICH EXTENDS TO 200 MILES FROM THE COASTS. THE GULF, SOUTH ATLANTIC AND CENTRAL AND WESTERN PACIFIC FISHERY MANAGEMENT COUNCILS HAVE ALREADY DRAFTED MANAGEMENT PLANS FOR CORAL AND THE COUNCILS COULD PROTECT STARFISH, IF THAT WERE SOMEHOW CONSIDERED WORTHWHILE.

THE MARINE SANCTUARIES PROGRAM HAS BEEN VERY POORLY ADMINISTERED. EVEN THE AGENCY RESPONSIBLE FOR IT ADMITS THE PROBLEM. THIS IS EVIDENCED BY THE FACT THAT THERE HAVE BEEN THREE DIFFERENT PROGRAM ADMINISTRATORS SINCE JUNE 1978. WE BELIEVE THAT OTHER FEDERAL PROGRAMS ARE ALREADY DOING ALL THAT IS NECESSARY TO PROTECT THE MARINE ENVIRONMENT. A HANDFUL OF PEOPLE IN THE SANCTUARIES PROGRAM CANNOT KNOW HOW TO DEAL WITH EVERY ASPECT OF THE MARINE ENVIRONMENT AND EVERY OCEANS ACTIVITY. IF THE ANSWER TO THE LATTER POINT IS SIMPLY INTERAGENCY COOPERATION, THAT CAN BE ACHIEVED WITHOUT A MULTI-MILLION DOLLAR, OVERRIDING REGULATORY PROGRAM.

MANY USER GROUPS HAVE COMPLAINED BITTERLY ABOUT THE MARINE SANCTUARIES PROGRAM. WE HAVE HEARD FROM ORGANIZATIONS OF FISHERMEN AND FISH PROCESSORS (INCLUDING THE 800-MEMBER NATIONAL FISHERIES INSTITUTE AND THE CALIFORNIA SEAFOOD INSTITUTE), MARINE TRANSPORTATION COMPANIES (THE TRANSPORTATION INSTITUTE) AND OIL AND GAS COMPANIES (THE AMERICAN PETROLEUM INSTITUTE AND THE WESTERN OIL AND GAS ASSOCIATION) WHICH SUPPORT A SEVERE CURTAILMENT OR REPEAL OF THE PROGRAM. THEY VIEW MARINE SANCTUARIES AS UNNECESSARY AND AS IMPOSING AN ADDITIONAL LAYER OF COSTLY BUREAUCRACY. INDEED, OTHER MAJOR FEDERAL AGENCIES HAVE SERIOUSLY CRITICIZED IMPORTANT ASPECTS OF THE PROGRAM.

WE ASK YOU TO DENY FUNDS FOR THE MARINE SANCTUARIES PROGRAM IN FISCAL YEAR 1981. THE AMERICAN TAXPAYER HAS THE

RIGHT TO EXPECT THAT THIS KIND OF INESSENTIAL PROGRAM WILL CEASE TO BE A DRAIN ON THE U.S. TREASURY IN THE COMING YEAR OF FISCAL AUSTERITY.

MR. CHAIRMAN, ALTHOUGH WE HAVE REQUESTED INCREASED FUNDS AND HAVE SUGGESTED THAT THESE MONIES BE DERIVED FROM THE MARINE SANCTUARIES PROGRAM, WE WOULD ALSO NOTE THAT IT IS OUR INTENT TO SEEK AN OVERALL INCREASE IN THE AMOUNT OF FOREIGN FEES WHICH ARE PAID TO THE TREASURY BY FOREIGN VESSELS FOR THE PRIVILEGE OF FISHING IN THE U.S. ZONE. CURRENTLY, EACH FOREIGN VESSEL MUST PAY A FEE BASED ON THE SIZE OF THE VESSEL AND THE PRICE OF THE FISH WHICH IS HARVESTED. HOWEVER, U.S. FEES ARE SUBSTANTIALLY LESS THAN THOSE WHICH ARE CHARGED BY MOST OTHER NATIONS. THE U.S. PERMIT FEES ARE $1 PER REGISTERED TON FOR FISH HARVESTING VESSELS AND 50¢ PER REGISTERED TON FOR PROCESSING VESSELS. NO FOREIGN NATION CHARGES LESS. FOR EXAMPLE, CAMEROON CHARGES $20 PER REGISTERED TON; MAURETANIA, $180 PER REGISTERED TON; CHILE, $60 PER TON; ECUADOR, $80 PER TON; MEXICO, UP TO $46 PER TON; AND PERU, $80 PER TON. IN ADDITION, THE U.S. LEVIES A FEE BASED ON THE PRICE OF THE FISH HARVESTED. THIS FEE IS EQUAL TO 3.5% OF THE VALUE OF THE FISH. FOR ALMOST EVERY SPECIES OF FISH CAUGHT WITHIN THE U.S. FISHERY CONSERVATION ZONE, THIS FEE IS BETWEEN $1.86 AND $30 PER TON. COMPARABLE VALUE FEES CHARGED BY OTHER NATIONS RANGE BETWEEN $10 AND $2,000. CLEARLY, U.S. FEES CAN BE CHARACTERIZED AS MODERATE. IT IS OUR VIEW THAT THESE FEES SHOULD BE INCREASED TO REFLECT THE PRACTICE OF OTHER NATIONS OF THE WORLD, AND IT IS OUR INTENT TO SEEK AN INCREASE IN THESE

FEES THROUGH EITHER ADMINISTRATIVE ACTION OR BY APPROPRIATE LEGISLATIVE ACTION. IN THIS MANNER, WE BELIEVE THAT ADDITIONAL MONIES CAN BE MADE AVAILABLE TO THE GENERAL TREASURY TO FURTHER OFFSET THE INCREASED APPROPRIATIONS WE ARE SEEKING TODAY.

WE HAVE MADE EVERY EFFORT TO KEEP OUR REQUEST AT THE ABSOLUTE MINIMUM. IMPORTANT FISHERIES PROJECTS ARE GOING UNFUNDED BUT WE RECOGNIZE THE NEED TO BALANCE THE BUDGET. MR. CHAIRMAN, WE APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE THIS SUBCOMMITTEE AND ASK THAT YOU GIVE SERIOUS CONSIDERATION TO OUR PROPOSALS.

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STATEMENT OF REPRESENTATIVE JOHN BREAUX

Mr. BREAUX. This represents the testimony of the ranking minority member of the Fish and Wildlife Committee, and also Mr. Ed Forsythe.

Mr. HIGHTOWER. We are also happy to have Mr. Forsythe with us.

Mr. BREAUX. I might say we have testified before this subcommittee on a number of occasions during principally the period when our good friend and colleague Congressman Slack was chairman of the subcommittee and always felt that our subcommittee and the remarks we made were well taken and received outstanding treatment. I am sure whoever takes over the subcommittee chairmanship will continue in that fine tradition.

I have also, along with Mr. Forsythe, tried to direct our remarks not in general terms to the programs that you have responsibility of appropriating money for, but trying rather to pinpoint areas where we think some increases are necessary, and also suggesting for the committee's information areas where we think cuts can be made without doing violence to the mission of the Department.

My testimony this afternoon will focus on that.

One of the programs under the Commerce Department deals with the so-called 200-mile fishing program which we established back in 1976. That program, Mr. Chairman, has a number of very laudable goals. One is to insure that we as a nation will not have to continue to import over fifty percent of the fish that we utilize in the United States, thereby trying to get our U.S. fishermen to become self-sufficient. It would add a great deal to the balance of payments and help our country very extensively.

We, under that program, have increased our participation in the amount of fish we take only from 48 percent to 52 percent since 1976. So it is very evident that some improvement in that is needed.

Fisheries development could add about 40,000 new jobs and $1 billion annually to the national economy, as well as reduce our balance of payments imbalance by $1.7 billion. However, a precondition of this development is continued effective conservation.

The program that I am talking about today is Marine Resources, Monitoring, Assessment and Prediction Program. It is a long title. It is referred to as MORMAPP. It is very essential in seeing to it that the 200-mile law becomes effective and meaningful.

While we are requesting an increase, we are also requesting a budget cut in an equal amount. In other words, what we are suggesting to the Appropriations Committee is basically increasing the funds in one program but cutting another program by a like amount because we think the priorities can better be utilized in another area.

So what we are doing is seeking a $1.1 million increase for resource surveys under the MORMAPP program and an additional $1.15 million for data analysis which is needed to put the surveys into use. This is a critical part of the so-called 200-mile fisheries program.

If there were more money available, my summary points out where it could be used. But bearing in mind we are trying to

balance the budget, I would think those other areas are not likely to be funded in the amount we request. They are very important and they are indeed very critical. But we have tried to be selective and to point out to the subcommittee only those areas we think are especially critical and need to be funded.

Where do we get the money from? From the Marine Sanctuaries program. We propose to cut funding for the Marine Sanctuaries in fiscal year 1981. That would save $2.25 million, the amount that we are asking to be added to the other program.

I think after very careful consideration and after hearings by our subcommittee, the program is not needed in light of all the environmental protections. There are some fifteen federal statutes that already govern the area where Commerce has a program called the Marine Sanctuaries Program to take care of that—more than fifteen federal statutes, as well as state laws and international agreements.

I have listed for your information, Mr. Chairman, the federal programs that already cover this area: The FCMA, the Two Hundred Mile bill, Clean Water Act, Ports and Waterways Safety Act, Oil Pollution Act, amendments to the OCS Act, the Ocean Dumping Act, and on and on and on with laws we have passed and Departments that have programs that already take care of this problem. And yet we have a program in Commerce that is spending approximately $2.25 million to do something that really is not needed. They have already had three different Administrators or heads of the program in eighteen months, which doesn't really point to a very solid program. With all that protection, I think that we can do without this program and save us all some money.

The user groups out in the field that have complained about the program are the National Fisheries Institute, the California Seafood Institute, the Transportation Institute, the National Ocean Industries Association, American Petroleum Institute, and the Western Oil and Gas Association. Federal agencies that have some problems with it are the State Department, Interior Department, Department of Energy, and even EPA, have all expressed to our committee some problems with the program.

So what we are trying to do is say, look, we are not going to cause any problems with not funding this program; there is ample protection in all these other fifteen different federal laws; we can do away with this program and take that money and put it into something that is much more critical to make the 200-mile bill work.

The last comment I will make has to do with foreign fees. Our committee is now working on legislation which would increase the fees that these foreign fishing vessels have to pay to the United States for the right to fish within our 200-mile zone. Right now we are charging far less than any other foreign country for the right to fish in what we say is our fisheries zone. That will generate substantially more funds into the Department of Commerce and into our Treasury. These increased fees in the future will offset the increase that we ask for under the MORMAPP program which we think is essential.

That concludes my remarks.

Mr. HIGHTOWER. Thank you, Mr. Breaux.

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Mr. HIGHTOWER. Mr. Forsythe.

STATEMENT OF REPRESENTATIVE EDWIN FORSYTHE

Mr. FORSYTHE. Thank you, Mr. Chairman. I support what Congressman Breaux has already said.

I want to point out, to reemphasize, that this increase in fees on foreign fishing, which really isn't the offset that we have proposed for the appropriation increase, is taken care of by the Marine Sanctuary offset. But this we believe is important.

We would just mention it here and ask your interested help in convincing the Administration that this is a very sound and wise move, and it will help fund the very programs that we are so vitally interested in when it comes to this 200-mile fishery bill which I think is just one of the most essential pieces of legislation to protect not only our national fisheries, but to provide an increasing marine food supply in a world that is shortly running out of protein. So we hope that you will give consideration to our request. We hope we have tried to make it easy for you.

Thank you, Mr. Chairman.

Mr. HIGHTOWER. Thank you very much. We appreciate your testimony. I know we are going to find it very helpful when we come to mark up the bill.

STATEMENT OF REPRESENTATIVE JOHN MURPHY

Mr. HIGHTOWER. Mr. Chairman, we are happy to have you here. Your formal statement will appear in the record at this point, and if you would like to comment on it further, we will be happy to hear from you.

[Mr. Murphy's statement follows:]

STATEMENT OF THE
HON. JOHN M. MURPHY, CHAIRMAN,
COMMITTEE ON MERCHANT MARINE AND FISHERIES

BEFORE THE
HOUSE APPROPRIATIONS SUBCOMMITTEE ON
STATE, JUSTICE, COMMERCE, AND THE JUDICIARY

THE FY-81 BUDGET FOR
OCEAN AND FISHERIES PROGRAMS OF THE
DEPARTMENT OF COMMERCE, NATIONAL OCEANIC AND
ATMOSPHERIC ADMINISTRATION (NOAA)

April 1, 1980

MR. CHAIRMAN, I APPRECIATE THIS OPPORTUNITY TO TESTIFY BEFORE YOUR SUBCOMMITTEE ON THE FISCAL YEAR 1981 BUDGET FOR VARIOUS OCEAN-RELATED AND FISHERIES PROGRAMS ADMINISTERED BY NOAA IN THE DEPARTMENT OF COMMERCE. AS YOU KNOW, AT THE MOMENT THERE IS SOME UNCERTAINTY ABOUT REVISIONS TO THE PRESIDENT'S FY-81 BUDGET REQUEST. MY TESTIMONY TODAY WILL BE BASED ON THE PUBLISHED ADMINISTRATION-RECOMMENDED BUDGET WITH REFERENCE TO ANTICIPATED REQUESTS FOR BUDGET CUTS IN SOME CATEGORIES.

NOAA'S PROPOSED BUDGET FOR FY 1981, UPON EXAMINATION, LEADS TO THREE OBSERVATIONS. FIRST, MANY OF THE ADMINISTRATION'S RECOMMENDED FUNDING LEVELS FOR NOAA'S OPERATIONS IN THE NEXT FISCAL YEAR ARE REASONABLE AND SHOULD BE SUPPORTED BY THE CONGRESS.

SECOND, CERTAIN KEY PROGRAMS HAVE NOT BEEN FUNDED ADEQUATELY IN THE PAST AND SUCH INADEQUACIES ARE AGAIN REPRESENTED IN THE FY-81 BUDGET REQUEST. ADDITIONALLY, ANTICIPATED CUTS PURSUANT TO RECENT EFFORTS TO BALANCE THE BUDGET MAY HAVE THE MOST SEVERE AND EGREGIOUS IMPACT ON

FEDERAL OCEAN PROGRAMS AND SHOULD BE REVERSED BY CONGRESSIONAL ACTION.

FINALLY, TO REITERATE COMMENTS I MADE LAST YEAR BEFORE THIS SUBCOMMITTEE, ONE OF THE MOST SEVERE PROBLEMS WHICH NOAA IS FACING RELATES TO PERSONNEL CONSTRAINTS LIMITING THE AGENCY'S EFFECTIVENESS IN MEETING LEGISLATIVE OBLIGATIONS.

FIRST, I WOULD LIKE TO ADDRESS SOME OF THE MAJOR ELEMENTS WITHIN NOAA'S COASTAL ZONE MANAGEMENT PROGRAM. LAST WEEK, I INTRODUCED, AT THE REQUEST OF THE ADMINISTRATION, H.R. 6956 WHICH IS THE ADMINISTRATION'S COASTAL ZONE MANAGEMENT REAUTHORIZATION BILL. YESTERDAY, I COSPONSORED, WITH THE CHAIRMAN OF OUR OCEANOGRAPHY SUBCOMMITTEE, MR. STUDDS OF MASSACHUSETTS, AN ALTERNATIVE CZM REAUTHORIZATION BILL (H.R. 6979) THAT MAKES A NUMBER OF MODIICATIONS TO EXISTING PROVISIONS IN THE ACT AND WILL REQUIRE SOME ADJUSTMENTS IN APPROPRIATIONS IF THE PROPOSED LEGISLATION IS ENACTED.

MR. CHAIRMAN, THE COASTAL ZONE MANAGEMENT ACT (CZMA) OF 1972 PROVIDES INCENTIVES TO COASTAL STATES AND TERRITORIES TO SET UP LEGAL AND INSTITUTIONAL MECHANISMS NECESSARY FOR MANAGING THE INCREASING PRESSURES ON OUR NATION'S COASTAL ZONE. IT ALSO ALLOWS THE STATES TO PROMOTE THEIR INTERESTS IN OUTER CONTINENTAL SHELF OIL AND GAS RECOVERY AND, AT THE SAME TIME, PROTECT DELICATE OFFSHORE AND ONSHORE ECOSYSTEMS.

NINETEEN OF THE THIRTY-FIVE ELIGIBLE COASTAL STATES AND TERRITORIES NOW HAVE APPROVED COASTAL ZONE MANAGEMENT PROGRAMS. THIS REPRESENTS 68 PERCENT OF THE TOTAL ELIGIBLE COASTLINE MILEAGE. IT IS ANTICIPATED THAT, BY THE END OF FY 1980, AN ADDITIONAL SEVEN STATES AND TERRITORIES MAY QUALIFY FOR PROGRAM APPROVAL. TO FUND THE EFFORTS OF ALL OF THESE STATES, FROM ALASKA TO CALIFORNIA, FROM FLORIDA TO MAINE, AND THE GULF AND GREAT LAKES STATES, THE ADMINISTRATION HAS REQUESTED, IN ITS BILL, AN AUTHORIZATION AMOUNT NOT TO EXCEED $50 MILLION FOR SECTION 306 FOR FY 1981 AND SUCCEEDING FISCAL YEARS. MY LEGISLATION ALSO PROVIDES AN IDENTICAL AUTHORIZATION AMOUNT. SECTION 306 PROVIDES ADMINISTRATION GRANTS TO STATES FOR STATE COASTAL MANAGEMENT PROGRAMS.

WITH RESPECT TO APPROPRIATION REQUESTS FOR FY 1981, THE ADMINISTRATION IS ASKING FOR $34.712 MILLION FOR PROGRAM ADMINISTRATIVE GRANTS AND I SUPPORT THIS FIGURE.

IT SHOULD ALSO BE POINTED OUT THAT THE ADMINISTRATION'S BILL FOR REAUTHORIZATION FOR CZMA INCLUDES A PROVISION WHICH WOULD REQUIRE STATES TO DEVOTE AN INCREASING PROPORTION OF 306 FUNDS TO MEETING CERTAIN NATIONAL POLICIES REFLECTED IN SECTION 303 OF THE ACT. MY BILL HAS A SIMILAR PROVISION ALTHOUGH THERE ARE CERTAIN DIFFERENCES IN APPROACH. ADDITIONALLY, THE LEGISLATION WHICH I HAVE COSPONSORED WITH MR. STUDDS AND OTHERS DROPS SEPARATE AUTHORIZATION SECTIONS FOR INTERSTATE COORDINATION (SECTION 309) AND RESEARCH AND TRAINING (SECTION 310) AND PROVIDES THAT SUCH WORTHWHILE

PROGRAMS BE CARRIED OUT BY STATES WITH THEIR SECTION 306 FUNDING. THEREFORE, IT IS IMPERATIVE THAT THE ADMINISTRATION'S REQUEST FOR SECTION 306 APPROPRIATIONS BE AGREED TO BY THIS SUBCOMMITTEE.

THE ESTUARINE SANCTUARIES PROGRAM CONTAINED IN SECTION 315(1), PROVIDES 50 PERCENT MATCHING GRANTS TO COASTAL STATES FOR THE PURPOSE OF ACQUIRING, DEVELOPING AND OPERATING ESTUARINE SANCTUARIES. BY THE END OF FY 1980, $12.3 MILLION WILL HAVE BEEN EXPENDED FOR THE CREATION OF TEN SANCTUARIES WITHIN THE NATIONAL ESTUARINE SYSTEM. THE ADMINISTRATION HAS RECOMMENDED REAUTHORIZATION OF SECTION 315(1) FOR FIVE ADDITIONAL YEARS AT THE PRESENT $6 MILLION ANNUAL LEVEL TO INSURE THAT ASSISTANCE IS AVAILABLE TO COMPLETE THE SYSTEM. FOR FY 1981, THE ADMINISTRATION HAS REQUESTED AND I SUPPORT, AN APPROPRIATION AMOUNT OF $3 MILLION FOR SECTION 315(1). I WOULD NOTE, HOWEVER, THAT IN FUTURE YEARS THIS APPROPRIATION LEVEL MAY NEED TO BE RAISED BECAUSE EIGHT STATES ARE PRESENTLY PREPARING APPLICATIONS FOR ESTUARINE SANCTUARY DESIGNATIONS. ALSO, IN MY CZM LEGISLATION, I HAVE MOVED THE BEACH ACCESS PROVISION FROM SECTION 315 BUT HAVE LEFT ISLAND PRESERVATION AS ONE OF THE COMPONENTS OF THAT SECTION. A TOTAL AUTHORIZATION LEVEL OF $10 MILLION IS CONTAINED IN THE BILL FOR PURPOSES OF ESTUARINE SANCTUARY AND ISLAND PRESERVATION DESIGNATIONS. WE WILL NEED TO TAKE A CLOSER LOOK AT SECTION 315 DURING THE NEXT FISCAL YEAR TO DETERMINE WHETHER ADDITIONAL APPROPRIATIONS MAY BE NECESSARY.

WITH RESPECT TO PUBLIC ACCESS TO COASTAL AREAS, SECTION 315(2) OF EXISTING LAW HAS NEVER BEEN FUNDED. AGAIN, FOR FY-81, THE ADMINISTRATION IS REQUESTING ZERO FUNDING. FROM THE POINT OF VIEW OF THE MERCHANT MARINE AND FISHERIES COMMITTEE AND THOSE WHO SUPPORT COASTAL MANAGEMENT, THIS REQUEST IS UNACCEPTABLE. IN FACT, MR. STUDDS AND I HAVE INTRODUCED A CONCEPT IN THE NEW LEGISLATION WHICH WOULD MOVE THE BEACH ACCESS PROVISION FROM SECTION 315 AND INCORPORATE IT IN A NEW SECTION 306A. THIS NEW SECTION IS ENTITLED "RESOURCE MANAGEMENT IMPROVEMENT GRANTS" AND INCLUDES PROGRAMS FOR THE DESIGNATION OF AREAS OF PRESERVATION AND RECREATION, THE REVITALIZATION AND RESTORATION OF URBAN WATERFRONTS AND PORTS, AND ACCESS TO PUBLIC COASTAL AREAS, INCLUDING BEACHES.

THIS NEW SECTION IS AUTHORIZED AT $35 MILLION PER FISCAL YEAR AND REPRESENTS A $5 MILLION PER YEAR REDUCTION IN EXISTING LEVELS OF AUTHORIZATION WHICH HAVE BEEN CHANGED BY OUR PROPOSED LEGISLATION. SPECIFICALLY, SECTION 309 AND 310 HAVE HAD SEPARATE AUTHORIZATION SECTIONS DELETED AND THESE REPRESENT $15 MILLION PER YEAR IN TOTAL. THE BEACH ACCESS PROVISION OF SECTION 315(2) IS AUTHORIZED AT $25 MILLION PER YEAR AND THAT IS NOW INCORPORATED IN OUR NEW SECTION. CONSEQUENTLY, THE TOTAL OF ALL THESE SECTIONS REPRESENTS $40 MILLION AND WE ARE REQUESTING AN AUTHORIZATION LEVEL OF $35 MILLION. THEREFORE, TO START THE NEW PROGRAMS AUTHORIZED

IN OUR SECTION 306A, I AM REQUESTING THIS SUBCOMMITTEE TO APPROVE AN APPROPRIATION OF $15 MILLION FOR SECTION 315(2) WHICH, WHEN THE NEW LEGISLATION IS PASSED, WILL PROVIDE INITIAL START-UP FUNDING FOR THE PRESERVATION AND RESTORATION AREA DESIGNATION, URBAN WATERFRONTS AND PORTS, AND PUBLIC ACCESS PROVISIONS.

THE OFFICE OF COASTAL ZONE MANAGEMENT WITHIN NOAA ADMINISTERS THE NATIONAL COASTAL MANAGEMENT PROGRAM. STEWARDSHIP OF THE PROGRAM HAS LED TO SIGNIFICANT GAINS IN IMPROVING THE ABILITY OF STATES TO MANAGEMENT COASTAL RESOURCES. FOR FY 1981, THE ADMINISTRATION HAS REQUESTED $5.201 MILLION FOR PROGRAM ADMINISTRATION AND IT IS MY JUDGEMENT THAT THIS REQUEST IS REASONABLE AND SHOULD BE SUPPORTED BY THE COMMITTEE. TWO OTHER IMPORTANT AREAS WHERE ADMINISTRATION-REQUESTED APPROPRIATION LEVELS SEEM APPROPRIATE AND NECESSARY ARE IN THE MARINE SANCTUARIES PROGRAM AND THE OCEAN USE PLANNING AND ASSESSMENT PROGRAM. WITH RESPECT TO THE FORMER, THE MERCHANT MARINE AND FISHERIES COMMITTEE RECENTLY APPROVED A FY 1981 AUTHORIZATION FIGURE OF $2.25 MILLION FOR THE MARINE SANCTUARIES PROGRAM. THE PRESIDENT HAS RECOMMENDED AN APPROPRIATION FIGURE IDENTICAL TO THE AUTHORIZATION LEVEL AND IT IS AN AMOUNT, OBVIOUSLY, WHICH OUR COMMITTEE SUPPORTS. APPROPRIATION OF THIS AMOUNT WILL MAKE IT POSSIBLE TO MANAGE AND DESIGNATE MARINE SANCTUARIES IN THOSE DISTINCTIVE OFFSHORE AREAS WHERE THE HIGH VALUE OF THE ECOSYSTEM REQUIRES SPECIAL PROTECTION ARRANGEMENTS.

THE $1.474 MILLION RECOMMENDED BY THE ADMINISTRATION FOR FY 1981 WITH RESPECT TO OCEAN USE PLANNING AND ASSESS-MENT WILL ALLOW NOAA TO CONTINUE COMPREHENSIVE PLANNING AND ANALYSIS OF OCEAN ACTIVITIES AND IDENTIFY THE INTERRELATION-SHIPS OF STATE AND FEDERAL OCEAN PROGRAMS TO DETERMINE OPTIMUM COURSES OF ACTION. WITHOUT THIS EFFORT, BOTH THE PROTECTION AND DEVELOPMENT OF OCEAN RESOURCES WILL BE HAMPERED BY AD HOC DECISIONS AND CONFLICTS AMONG AFFECTED GROUPS.

NEXT, I WOULD LIKE TO ADDRESS THE MOST SERIOUS PROBLEM IN THE NOAA-COASTAL MANAGEMENT BUDGET, NAMELY BUDGET PROPOSALS FOR THE COASTAL ENERGY IMPACT PROGRAM (CEIP). THE INITIAL ADMINISTRATION BUDGET REQUEST FOR THE VARIOUS COMPONENTS OF CEIP, IN COMBINATION WITH POTENTIALLY SEVERE RECISSIONS AND DEFERRALS EXPECTED IN THE REVISED BUDGET, WOULD EFFEC-TIVELY DESTROY THE CEIP PROGRAM AND HAVE A DEVASTATING EFFECT ON THE BASIC COASTAL MANAGEMENT PROGRAM.

WITH RESPECT TO THE FY 1981 APPROPRIATION REQUEST IN THE ORIGINAL BUDGET SENT TO THE CONGRESS BY THE ADMINISTRATION, SECTION 308(b) COASTAL ENERGY IMPACT FORMULA GRANTS, UPON WHICH STATES ARE VITALLY DEPENDENT FOR PUBLIC SERVICE AND FACILITY COSTS OCCASIONED BY OFFSHORE OIL AND GAS DEVELOPMENT, CARRIED A REQUEST OF $27.172 MILLION. HOWEVER, OF THIS AMOUNT, $20 MILLION WAS TO BE FUNDED FROM CARRYOVER FUNDS FROM FY 1980.

IN OTHER WORDS, ONLY $7.172 MILLION WOULD BE NEW MONEY WHICH WOULD BE ALLOCATED TO THE STATES. THE $20 MILLION IN CARRY-OVER FUNDS WERE ALREADY ALLOCATED TO STATES IN PREVIOUS YEARS AND ARE NOT AVAILABLE FOR REALLOTMENT UNDER THE OCS FORMULA.

I WANT TO MAKE IT CLEAR THAT WHEN THE CEIP PROGRAM WAS ESTABLISHED IN 1976, AND AMENDED IN 1978 AS PART OF THE DEVELOPMENT OF OCS LEGISLATION, THE FORMULA UPON WHICH 308(b) GRANTS ARE TO BE BASED DID NOT CONTAIN A PROVISION FOR "CARRYOVER" FUNDS.

IN POINT OF FACT, AT THE SPECIFIC AND CONSERTED INSISTENCE OF THE ADMINISTRATION -- AND AS THE CHAIRMAN OF THE COMMITTEE OF JURISDICTION OVER COASTAL ZONE MANAGEMENT AND THE SELECT OCS COMMITTEE -- I SUCCESSFULLY ADVOCATED THE CONCEPT THAT OCS FORMULA GRANTS WERE TO BE ALLOCATED AMONG THE STATES BUT MAINTAINED IN ACCOUNTS WITH THE FEDERAL GOVERNMENT HERE IN WASHINGTON. FUNDS WERE TO BE ALLOCATED BASED ON OCS ACTIVITIES PURSUANT TO THE FORMULA AND MADE AVAILABLE TO THE STATES. THESE FUNDS WERE TO BE AVAILABLE THROUGH THE LIFE OF THE PROGRAM IN RETURN FOR A COMMITMENT BY THE CONGRESS THAT SUCH MONIES COULD REMAIN IN THE TREASURY. THE TREASURY DEPARTMENT SPECIFICALLY ASKED THAT THIS PROCEDURE BE ESTABLISHED BECAUSE THE LOSS OF INTEREST TO THE FEDERAL GOVERNMENT WOULD BE SUBSTANTIAL.

THE FORMULA RECOGNIZES THE TIME DELAY BETWEEN INITIAL ALLOCATIONS PURSUANT TO AN OCS LEASE SALE, AND THE NEED FOR FUNDS FOR PUBLIC FACILITIES, PUBLIC SERVICES, AND ENVIRONMENTAL COSTS NECESSITATED BY OFFSHORE DEVELOPMENT. THIS TIME DELAY WAS BUILT INTO THE PROCEDURES WHICH WE ESTABLISHED IN 1976 AND RECONFIRMED IN 1978. BECAUSE SOME STATES HAVE NOT "DRAWN DOWN" THEIR ENTIRE ALLOCATIONS, SOME $20 MILLION WAS DEFERRED IN THE FY-80 BUDGET. THIS DEFERRAL WAS DESCRIBED AS TECHNICAL IN NATURE BUT WOULD NOT AFFECT THOSE STATES WHO ASKED FOR SPECIFIC PROJECT FUNDING. HOWEVER, THIS $20 MILLION CARRYOVER IS NOW RESULTING IN AN APPROPRIATION REQUEST BY THE ADMINISTRATION OF $7.172 MILLION. THIS WILL SIGNIFICANTLY AFFECT EAST COAST STATES WHERE LEASE SALES HAVE BEEN HELD IN THIS FISCAL YEAR BECAUSE THE APPROPRIATION FOR SUCH ACTIVITY IS TO BE MADE IN THE NEXT FISCAL YEAR, I.E., FY 1981.

IT IS UNCONSCIONABLE, THAT THE ADMINISTRATION IS USING THE CARRYOVER ARGUMENT TO SUPPORT SUCH A SEVERE REDUCTION IN OCS FORMULA GRANTS, PARTICULARLY IN VIEW OF THE CLEAR LEGISLATIVE HISTORY ASSOCIATED WITH THE ESTABLISHEMENT OF SUCH GRANTS. AFTER FOUR YEARS OF INTENSE DELIBERATIONS, THE 95TH CONGRESS PASSED THE OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS OF 1978 AND, ON SEPTEMBER 18, 1978, THE PRESIDENT SIGNED PUBLIC LAW 95-372. INCLUDED IN THE OCS LANDS ACT AMENDMENTS ARE SIGNIFICANT MODIFICATIONS TO THE CEIP FORMULA

GRANTS WHICH INCREASE THE AUTHORIZATION FROM $50 MILLION PER YEAR TO $130 MILLION PER YEAR AND CHANGED THE ALLOTMENT FORMULA WHICH PROVIDED FOR A 37½ PERCENT CEILING TO ANY ONE STATE AND A 2 PERCENT FLOOR TO ANY IMPACTED STATE IN A REGION HAVING OCS ENERGY ACTIVITY.

BASED SOLELY ON THE PROPORTION OF THE AUTHORIZATION INCREASE CONTAINED IN THE OCS LEGISLATION, BOTH THE FY 1979 AND FY 1980 BUDGET SHOULD HAVE INCREASED FROM $27.7 MILLION TO OVER $72.0 MILLION. REALISTICALLY, IN VIEW OF THE CURRENT NATIONAL NEED FOR BUDGET CONSTRAINT, AN INCREASE OF THIS MAGNITUDE WOULD NOT BE ADVISABLE. HOWEVER, WHEN CONGRESS PLACED THE 37½ PERCENT CEILING AND THE 2 PERCENT FLOOR PROVISIONS IN THE LEGISLATION, IT DID NOT INTEND TO SIMPLY REALLOCATE THE SAME FUNDS AMONG MORE STATES. RATHER, WE INTENDED TO ALLOCATE FAIRLY INCREASED FUNDS TO OCS IMPACTED STATES.

TO PREVENT FUNDING LOSSES TO THE LARGEST OCS STATES FROM THE FORMULA CHANGES, AN APPROPRIATION INCREASE IN THE MAGNITUDE OF $15 MILLION FOR BOTH FY 1979 AND FY 1980 WAS NECESSARY. RATHER THAN MAKE THIS INCREASE CHANGE NECESSITATED BY CONGRESSIONAL INTENT AND STATUTORY MODIFICATIONS, THE ADMINISTRATION TURNS AROUND AND SIGNIFICANTLY REDUCES 308(b) GRANTS TO $7.172 MILLION.

AGAIN, THIS REDUCTION SERIOUSLY VIOLATES CONGRESSIONAL INTENT IN TWO WAYS. FIRST, AS JUST NOTED, THE INCREASED AUTHORIZATION AS A RESULT OF THE 1978 OCS LEGISLATION AND THE CONCOMITANT FORMULA MODIFICATIONS ARGUE STRENUOUSLY THAT APPROPRIATIONS SHOULD INCREASE IN SOME REASONABLE AND PROPORTIONAL AMOUNT. SECOND, THE FACT THAT STATES HAVE NOT DRAWN DOWN ALL OF THEIR ALLOCATED AMOUNTS WAS INTENDED BY THE CONGRESS IN THOSE CASES WHERE OCS IMPACTS ARE NOT IMMEDIATE BUT WILL EVENTUALLY BE REALIZED IN THE YEARS AHEAD. RATHER THAN SENDING THE MONEY TO THE STATES PREMATURELY, THUS SUFFERING A LOSS OF FEDERAL INTEREST AND CONTROL, THE MONEY IS KEPT IN WASHINGTON. BUT THIS SYSTEM, SPECIFICALLY REQUESTED BY THE ADMINISTRATION, SHOULD NOT PENALIZE STATES AND THE CARRYOVER RESULTING THEREFROM SHOULD NOT BE USED AS AN EXCUSE FOR SUCH A SERIOUS REDUCTION IN OCS FORMULA GRANTS. I URGE THIS SUBCOMMITTEE TO INCREASE THE ADMINISTRATION'S REQUEST TO $42.172 MILLION IN FY 1981.

OTHER COMPONENTS OF THE CEIP PROVISIONS OF THE COASTAL MANAGEMENT ACT ARE EQUALLY IMPORTANT IN CARRYING OUT CERTAIN FUNCTIONS RELATED TO ENERGY DEVELOPMENT IN THE COASTAL ZONE. HOWEVER, THE ADMINISTRATION HAS SEEN FIT TO RECOMMEND ZERO FUNDING IN THESE CRITICALLY IMPORTANT AREAS AND POSSIBLE REPROGRAMMING OF FUNDS TO COVER SUCH PROVISIONS IS SERIOUSLY THREATENED BY POTENTIAL RECISSIONS AND DEFERRALS.

FOR EXAMPLE, SECTION 308(c)(1) PROVIDES PLANNING GRANTS FOR STATES OPERATING UNDER THE CEIP. SUCH GRANTS ARE THE ONLY FUNDING SOURCE FOR PROJECTS RELATED TO PLANNING FOR IMPACTS FROM NUCLEAR OR CONVENTIONAL POWER PLANTS OR REFINERIES LOCATED IN THE COASTAL ZONE IN ADDITION TO NORMAL WATER DEPENDENT ENERGY ACTIVITY. THE ADMINISTRATION HAS RECOMMENDED ZERO FUNDING IN THIS IMPORTANT CATEGORY. I URGE THIS SUB-COMMITTEE TO APPROPRIATE AT LEAST $3.5 MILLION FOR SECTION 308(c)(1).

THE OCS LANDS ACT AMENDMENTS CREATED A STRONG RESPONSIBILITY UNDER SECTION 308(c)(2) FOR STATE PARTICIPATION IN THE FEDERAL LEASING AND MANAGEMENT PROCESS. IT PROVIDED FOR GRANTS AUTHORIZED AT $5 MILLION ANNUALLY TO MAKE UP AS MUCH AS 80 PERCENT OF THE STATES' COST IN THIS PARTICIPATION. FAILURE TO FUND THESE GRANTS FOR SOME 22 STATES COULD RESULT IN DELAYS IN OCS LEASING AND MANAGEMENT DECISIONS OR INSUFFICIENT ENVIRONMENTAL CONTROLS ON A DEVELOPMENT, BOTH OF WHICH WOULD BE REGRETTABLE GIVEN THE CURRENT ENERGY SUPPLY SHORTAGE AND POTENTIAL DAMAGE TO OUR NATION'S NATURAL RESOURCES. THE ADMINISTRATION AGAIN HAS RECOMMENDED ZERO FUNDING. I URGE SUBCOMMITTEE ACTION TO RESULT IN AN APPROPRIATION OF $4 MILLION FOR THE OCS STATE PARTICIPATION GRANTS IN SECTION 308(c)(2).

I WOULD POINT OUT THAT THE ADMINISTRATION HAD INTENDED TO FUND THESE TWO PROGRAMS, THE ENERGY PLANNING GRANTS AND THE OCS STATE PARTICIPATION GRANTS OUT OF REPROGRAMMED FUNDS FROM THOSE REMAINING IN SECTION 308(h) OF THE COASTAL ENERGY IMPACT FUND. ADDITIONALLY, SUCH REPROGRAMMING WAS TO INCLUDE ENVIRONMENTAL GRANTS UNDER SECTION 308(d)(4) PLUS PROGRAM MANAGEMENT OF THE CEIP. HOWEVER, THERE IS AN APPARENT CHANGE IN ADMINISTRATION POLICY, WHICH MAY BE REFLECTED IN THE PRESIDENT'S REVISED BUDGET, TO THE EXTENT THAT SUBSTANTIAL RECISSIONS OF AS MUCH AS $50 MILLION IN SECTION 308(h) FUNDS COUPLED WITH A DEFFERAL UNTIL THE THIRD QUARTER OF 1981 OF THE BALANCE ARE BEING DISCUSSED. IF THIS OCCURS, NO FUNDS WOULD BE AVAILABLE FOR SECTION 308(c)(1), SECTION 308(c)(2), SECTION 308(d)(4), AND PROGRAM ADMINISTRATION. THIS WOULD BE A SERIOUS AND DEVASTING ACTION TO TAKE FOR THESE VARIOUS ENERGY-RELATED GRANT PROGRAM. CONSEQUENTLY, I STRONGLY URGE THIS SUBCOMMITTEE TO APPROVE THE FY 1981 BUDGET REQUEST I HAVE INDICATED IN MY STATEMENT AND, IF IT CHOOSES TO REPROGRAM MONIES FROM THE LOAN FUND, THAT THE ADMINISTRATON'S RECISSION AND DEFERRAL PROPOSALS BE REJECTED.

I WOULD NOW LIKE TO TURN TO THOSE PROGRAMS OF NOAA WHICH FALL UNDER THE JURISDICTION OF OUR SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION AND THE ENVIRONMENT. FIRST, I SHOULD LIKE TO BRING TO YOUR ATTENTION LEGISLATION WHICH IS IN PROGRESS AND WHICH HAS BEEN OR WILL BE REPORTED PRIOR TO THE MAY 15 DEADLINE.

AMONG SUCH BILLS IS H.R. 4890, NOW PENDING BEFORE THE FULL MERCHANT MARINE AND FISHERIES COMMITTEE, WHICH EXTENDS THE AUTHORIZATION FOR APPROPRIATIONS UNDER THE COMMERCIAL FISHERIES RESEARCH AND DEVELOPMENT ACT. THIS ACT AUTHORIZES THE SECRETARY OF COMMERCE TO ASSIST THE 50 STATES, THE COMMONWEALTH OF PUERTO RICO, AND THE GOVERNMENTS OF THE VIRGIN ISLANDS, GUAM, AND AMERICAN SAMOA, IN CARRYING OUT RESEARCH AND DEVELOPMENT OF COMMERCIAL FISHERIES. SOME 837 PROJECTS HAVE BEEN INITIATED UNDER THIS PROGRAM SINCE 1966. IT HAS PROVIDED RESEARCH LABORATORIES AND VESSELS AND HAS ENABLED THE STATES TO SECURE INFORMATION AND DATA NECESSARY FOR THE CONSERVATION AND MANAGEMENT OF COMMERCIAL FISHERY RESOURCES. ITS BENEFITS HAVE EXTENDED FAR BEYOND THE STATES TO ASSIST THE NATIONAL MARINE FISHERIES SERIVCE, THE REGIONAL FISHERY MANAGEMENT COUNCILS, PRIVATE INDUSTRY AND THE AMERICAN PUBLIC.

TO CARRY OUT PROGRAMS UNDER THIS ACT DURING FISCAL YEAR 1981, H.R. 4890, AUTHORIZES $10 MILLION UNDER SECTION 4(a), $5 MILLION UNDER SECTION 4(b), AND $.5 MILLION UNDER SECTION 4(c) FOR A TOTAL OF $15.5 MILLION. THE PRESIDENT'S BUDGET ALLOWS $5 MILLION TO CARRY OUT PROGRAMS UNDER SECTION 4(a) AND NO MONIES UNDER THE OTHER TWO SECTIONS. IT SHOULD BE NOTED THIS IS THE SAME AMOUNT AUTHORIZED FOR SECTION 4(a) IN 1964, THE FIRST YEAR THE ACT WAS IN EFFECT AND I DO NOT NEED TO TELL YOU GENTLEMEN THAT DOLLARS BUY A LOT LESS THAN THEY DID 16 YEARS AGO.

THE COMMERCIAL FISHERIES RESEARCH AND DEVELOPMENT ACT HAS BEEN ONE OF THE MOST POPULAR FEDERAL-AID ACTS EVER ENACTED INTO LAW BY CONGRESS AND, WE BELIEVE, ONE OF THE MOST SUCCESSFUL IN CARRYING OUT THE PURPOSES FOR WHICH IT WAS INTENDED. INFORMATION HAS BEEN PROVIDED TO MY COMMITTEE THAT THERE IS A BACKLOG OF UNFUNDED PROJECTS EXCEEDING $6 MILLION IN THE ATLANTIC AND SOUTHEAST REGIONS ALONE AND THAT THE SITUATION IS SIMILAR IN OTHER AREAS. I UNDERSTAND A LIST OF THESE UNFUNDED PROJECTS, BY STATES, HAS BEEN PREPARED AND WILL BE PRESENTED TO YOU BY REPRESENTATIVES OF THE REGIONAL FISHERIES COMMISSIONS IN CONNECTION WITH THEIR TESTIMONY BEFORE YOUR SUBCOMMITTEE. I HOPE THAT SOME CONSIDERATION CAN BE GIVEN TO REDUCING THIS BACKLOG OF UNFUNDED PROJECTS IN YOUR DETERMINATION OF AN APPROPRIATE LEVEL OF FUNDING FOR THIS EXTREMELY WORTHWHILE PROGRAM.

THE SECOND MEASURE IN THIS CATEGORY IS H.R. 20, THE NATIONAL AQUACULTURE DEVELOPMENT ACT, THE RESULT OF A MAJOR EFFORT BY MY COMMITTEE OVER SEVERAL CONGRESSES. DIFFERING VERSIONS OF THIS BILL HAVE BEEN FAVORABLY REPORTED BY MY COMMITTEE AND THE HOUSE AGRICULTURE COMMITTEE. EFFORTS ARE UNDERWAY TO REACH A COMPROMISE AND THE SENATE HAS SIMILAR LEGISLATION IN PROGRESS. AS YOU MAY RECALL, LEGISLATION FOR THIS PURPOSE WAS POCKET VETOED IN THE 95th CONGRESS. THE BILL WHICH WE EXPECT TO PASS THIS YEAR IS A CONSIDERABLY WATERED DOWN VERSION OF THE VETOED BILL WHICH WE HAVE EVERY REASON TO BELIEVE WILL BE APPROVED BY THE ADMINISTRATION.

AQUACULTURE IS RECOGNIZED WORLDWIDE AS BEING THE GREATEST POTENTIAL SOURCE FOR ADDITIONAL PROTEIN BUT OUR NATION HAS FALLEN FAR BEHIND IN THE EFFORT TO DEVELOP IT. H.R. 20 WOULD PROMOTE AQUACULTURE IN THE U.S. BY DECLARING A NATIONAL AQUACULTURE

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POLICY, BY ESTABLISHING AND IMPLEMENTING A NATIONAL PLAN FOR AQUACULTURE, AND BY DEVELOPING PROGRAMS AND ENCOURAGING ACTIVITIES WHICH WILL RESULT IN THE COORDINATION OF DOMESTIC AQUACULTURE EFFORTS, THE CONSERVATION AND INCREASED AVAILABILITY OF FISHERIES RESOURCES, THE CREATION OF NEW INDUSTRIES AND JOB OPPORTUNITIES, AND OTHER NATIONAL BENEFITS.

OUR PAST EFFORTS IN THIS DIRECTION HAVE NOT BEEN IN VAIN SINCE THEY HAVE ENCOURAGED THE ADMINISTRATION TO BEGIN TO DEVELOP A PLAN AND INITIATE SOME STUDIES, THE RESULTS OF WHICH ARE EXPECTED TO BE REALIZED LATE THIS YEAR. H.R. 20 AUTHORIZES $4 MILLION FOR THE DEPARTMENT OF COMMERCE TO CARRY OUT ITS RESPONSIBILITIES DURING FISCAL YEAR 1981 BUT IT WILL NOT BE CLEAR HOW MUCH OF THIS WILL BE NECESSARY UNTIL THE PLAN AND STUDY RESULTS ARE AVAILABLE. ACCORDINGLY, WE ARE BRINGING THIS TO YOUR ATTENTION BUT ARE NOT REQUESTING ANY MONEY FOR THIS PURPOSE AT THIS TIME. WHEN 1981 FUNDING NEEDS FOR THIS PURPOSE HAVE BEEN DETERMINED, YOU WILL BE ADVISED IN A SUPPLEMENTAL REQUEST WHICH I HOPE WILL BE GIVEN FAVORABLE CONSIDERATION IN VIEW OF THE VAST POTENTIAL BENEFITS TO BE DERIVED FROM A COORDINATED NATIONAL EFFORT TO DEVELOP AQUACULTURE.

THE FINAL PIECE OF LEGISLATION IN THIS CATEGORY IS A FISHERIES DEVELOPMENT PROPOSAL WHICH REPRESENTS THE NEXT STEP IN MY COMMITTEE"S LONGSTANDING EFFORT TO REJUVENATE THE AMERICAN FISHING INDUSTRY. A NUMBER OF PROPOSALS FOR THIS PURPOSE HAVE BEEN THE SUBJECT OF EXTENSIVE HEARINGS BEFORE THE SUBCOMMITTEE, INCLUDING H.R. 5570 AND S. 1656, BUT IT IS CURRENTLY CONTEMPLATED THAT A NEW BILL WILL BE INTRODUCED ENCOMPASSING THE FINDINGS OF OUR HEARINGS AND REPORTED OUT BEFORE MAY 15.

THE FISHERIES DEVELOPMENT LEGISLATION AS CONTEMPLATED WOULD EXPAND THE CAPITAL CONSTRUCTION FUND, WHICH PROVIDES A FEDERAL INCOME TAX DEFERRAL MECHANISM TO STIMULATE CAPITAL ACCUMULATION FOR REPLACEMENT VESSELS, AND THE TITLE XI OBLIGATION GUARANTEE PROGRAM, WHICH PROVIDES OBLIGATION LOAN GUARANTEES FOR PURCHASHING, CONSTRUCTING AND RECONSTRUCTING VESSELS, TO SHORESIDE FISHERIES FACILITIES. IN ADDITION, THE SALTONSTALL-KENNEDY ACT, WHICH USES FUNDS EARMARKED FROM IMPORT DUTIES ON FISHERIES PRODUCTS PRIMARILY TO PROMOTE MARKETS FOR DOMESTICALLY PRODUCED FISH, WOULD BE EXPANDED SO AS TO UTILIZE A LARGE SHARE OF SUCH FUNDS FOR CARRYING OUT FISHERIES DEVELOPMENT PROGRAMS ON A MATCHING FUND BASIS WITH VARIOUS SEGMENTS OF THE FISHING INDUSTRY. ALTHOUGH THE LEGISLATION IS DESIGNED TO HOLD DOWN ITS COST BY UTILIZING EXISTING PROGRAMS, THERE WILL BE ADDITIONAL ADMINISTRATIVE COSTS IN IMPLEMENTING THE PROGRAM. WE RECOMMEND AN APPROPRIATION OF $1.5 MILLION AND AN INCREASE IN PERSONNEL CEILINGS OF 30 POSITIONS FOR THIS PURPOSE.

WITH RESPECT TO THE TITLE XI OBLIGATION GUARANTEE PROGRAM, THE LEGISLATION WOULD EARMARK 10 PERCENT OF THE $10 BILLION AUTHORIZATION FOR FISHING VESSELS AND FISHERIES FACILITIES. IN THIS REGARD, THE PRESIDENT HAS PLACED A LIMITATION OF $100 MILLION ON THE TOTAL AMOUNT OF COMMITMENTS THAT CAN BE MADE FOR FISHING VESSELS DURING FISCAL YEAR 1981. IT IS IMPERATIVE THAT THIS LIMITATION BE REMOVED OR SUBSTANTIALLY INCREASED AS IT IS ANTICIPATED THAT A MINIMUM OF $250 MILLION WILL BE NEEDED FOR FISHING VESSEL FINANCING AND $50 MILLION FOR SHORESIDE FISHERIES FACILITIES IN ANTICIPATION OF THE PASSAGE OF THE LEGISLATION GOING FORWARD AT THIS TIME. IF THE COMMITTEE IN ITS WISDOM DOES NOT SEE FIT TO

REMOVE THE LIMITATION THEN WE STRONGLY RECOMMEND THAT IT BE INCREASED TO $300 MILLION.

IN THIS CONNECTION, IT SHOULD BE POINTED OUT THAT THERE IS LEGISLATION PENDING, WHICH I INTRODUCED AT THE REQUEST OF THE ADMINISTRATION AND WHICH WOULD SUBSTANTIALLY MODIFY THE SALTONSTALL-KENNEDY ACT AND PROVIDE DIRECT FUNDING FROM APPROPRIATIONS FOR THE ACTIVITIES NOW CARRIED OUT WITH S-K FUNDS. THAT BILL, H.R. 6311, IS OPPOSED BY MY COMMITTEE AND WE DO NOT INTEND TO TAKE ANY ACTION ON IT. THEREFORE, THE SAVINGS CONTEMPLATED BY THE PRESIDENT IN THE AMOUNT OF $15.8 MILLION WILL NOT BE EFFECTED. WE FEEL VERY STRONGLY THAT IT IS IMPORTANT TO CONTINUE TO EARMARK THESE FUNDS TO INSURE THE DEVELOPMENT OF MARKETS FOR DOMESTICALLY PRODUCED FISHERY PRODUCTS.

FURTHER, MR. CHAIRMAN, WE BELIEVE IT IS IMPERATIVE THAT THE ENTIRE $35.8 MILLION NOW BE DIRECTED TOWARD THESE PURPOSES. WITH THE HELP OF YOUR SUBCOMMITTEE, WE HAVE BEEN ABLE TO MAKE CONSIDERABLE PROGRESS SINCE THE PASSAGE OF THE FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976 IN OUR EFFORTS TO REJUVENATE THE AMERICAN FISHING INDUSTRY. THE FISHERY DEVELOPMENT MEASURE I HAVE ALREADY DISCUSSED IS THE NEXT LOGICAL STEP BUT ITS SUCCESS IS DEPENDENT UPON FULL UTILIZATION OF THE MONIES AVAILABLE IN THE S-K FUND.

THIS BRINGS ME TO THE NEEDS PRESENTED BY THE FISHERY CONSERVATION AND MANAGEMENT ACT (FCMA) FOR FISCAL YEAR 1981, FOR WHICH NO NEW AUTHORIZATION IS NECESSARY. UNDER EXISTING LEGISLATION $40 MILLION HAS BEEN AUTHORIZED TO CARRY OUT THESE PROGRAMS BUT THE PRESIDENT'S BUDGET CONTAINS ONLY $30.4 MILLION FOR THIS PURPOSE.

MR. CHAIRMAN, THIS IS A PARTICULARLY CRUCIAL PERIOD FOR THE PROGRAMS ESTABLISHED BY THE FCMA. THAT ACT, AS YOU KNOW, SET UP A SERIES OF REGIONAL FISHERY MANAGEMENT COUNCILS AND CHARGED THEM WITH "THE PREPARATION AND IMPLEMENTATION, IN ACCORDANCE WITH NATIONAL STANDARDS, OF FISHERY MANAGEMENT PLANS WHICH WILL ACHIEVE AND MAINTAIN, ON A CONTINUING BASIS, THE OPTIMUM YIELD FROM EACH FISHERY." I BELIEVE THAT THE TOTAL NUMBER OF SUCH PLANS CONTEMPLATED IS IN THE NEIGHBORHOOD OF 70, OF WHICH ONLY ABOUT A DOZEN HAVE BEEN FINALIZED AND ARE BEING IMPLEMENTED.

THESE PLANS, MR. CHAIRMAN, ARE IN REALITY THE LIFEBLOOD OF THE FCMA. UNTIL THE VAST MAJORITY OF THEM HAVE BEEN PUT INTO EFFECT, NEITHER WE AS A NATION NOR THE FISHING INDUSTRY CAN REALIZE THE FULL BENEFITS OF THAT LANDMARK LEGISLATION. THE PLANS THEMSELVES CAN ONLY BE AS GOOD AS THE DATA ON WHICH THEY ARE BASED AND THE QUALITY OF THE PLANS WILL DETERMINE TO WHAT EXTENT THESE RESOURCES WILL BE MANAGED AND CONSERVED.

IT IS FOR THIS REASON THAT I STRONGLY URGE THAT THE FULL $40 MILLION AUTHORIZED FOR 1981 BE APPROPRIATED FOR FCMA RELATED PROGRAMS. THIS REPRESENTS $9.6 MILLION ABOVE THE PRESIDENT'S REQUEST. TO PROVIDE THE BEST AND BROADEST DATA BASE FOR THE REMAINING PLANS, WE RECOMMEND THAT $5.5 MILLION OF THESE FUNDS BE ALLOTTED TO MARINE RESOURCES MONITORING, ASSESSMENT AND PREDICTION (MARMAP) ALONG WITH 17 NEW POSITIONS. TO ASSIST THE COUNCILS WITH THEIR INCREASING DUTIES, WE RECOMMEND AN INCREASE OF $2 MILLION OVER THE PRESIDENT'S REQUEST AND FINALLY, TO ASSURE ADEQUATE ENFORCEMENT OF THE FCMA, WE RECOMMEND AN INCREASE OF $2.1 MILLION AND 51 ADDITIONAL PERSONNEL.

I HAVE ENDEAVORED TO BE CONSERVATIVE IN MY REQUESTS, MR. CHAIRMAN, BUT IF THERE IS ONE SINGLE FISHERIES AREA WHERE A RELATIVELY SMALL INCREASE IN FUNDING CAN HAVE A TREMENDOUS IMPACT, I BELIEVE THIS IS IT AND I SINCERELY HOPE YOU WILL GIVE IT YOUR FAVORABLE CONSIDERATION.

LAST AMONG THE ITEMS TO WHICH I WISH TO CALL YOUR ATTENTION, MR. CHAIRMAN, IS THE ANADROMOUS FISH CONSERVATION PROGRAM WHICH IS DESIGNED TO CONSERVE, DEVELOP, AND ENHANCE THE ANADROMOUS FISHERY RESOURCE OF THE UNITED STATES AND THE FISH IN THE GREAT LAKES AND LAKE CHAMPLAIN THAT ASCEND STREAMS TO SPAWN. THIS IS ANOTHER FEDERAL/STATE MATCHING FUND PROGRAM LIKE THE COMMERCIAL FISHERIES RESEARCH AND DEVELOPMENT ACT WHICH HAS BEEN CONSISTENTLY UNDERFUNDED DESPITE A LARGE BACKLOG OF UNFUNDED PROJECTS. THE PRESIDENT AGAIN THIS YEAR HAS RECOMMENDED A $2 MILLION APPROPRIATION DESPITE REQUESTS FROM THE STATES FOR MORE THAN DOUBLE THAT AMOUNT. A LIST OF THE UNFUNDED PROJECTS IS ATTACHED HERETO FOR YOUR CONSIDERATION.

FINALLY, I WOULD LIKE TO BRIEFLY ADDRESS THE PERSONNEL CEILING PROBLEM AT NOAA AND THE NEGATIVE EFFECTS THIS PROBLEM IS CAUSING. THE FUNDING LEVEL FOR THE AGENCY HAS INCREASED OVER $530 MILLION SINCE 1970 WHEN NOAA WAS FIRST ESTABLISHED. MANY ADDED RESPONSIBILITIES HAVE ACCRUED TO THE AGENCY, INCLUDING LEAD ROLES FOR NEW OCEAN AND ATMOSPHERIC RELATED PROGRAMS.

NOAA'S EMPLOYMENT CEILING HAS INCREASED BY ONLY 2 PERCENT DURING THIS TIME. IN 1970, NOAA HAD A BUDGET OF $322 MILLION WITH A STAFF OF 12,421. IN FY 1981, THE ADMINISTRATION PROPOSES A BUDGET OF $820 MILLION WITH A STAFF OF ONLY 12,837 TO CARRY OUT ITS PROGRAMS. TO DO THE JOB ADEQUATELY, NOAA NEEDS ADDITIONAL STAFF. A SUBSTANTIAL EXPANSION OF NOAA'S RESPONSIBILITIES WITHOUT AN ACCOMPANYING INCREASE IN ITS PERMANENT EMPLOYMENT CEILING CANNOT GO ON FOREVER. THE AGENCY IS TO BE COMMENDED FOR INCREASED EFFICIENCY RESULTING FROM A REALIGNMENT OF LOWER PRIORITY PROGRAMS, INCREASED USE OF OUTSIDE CONTRACTRAL SERVICE, INTERNAL REORGANIZATIONS, AUTOMATION AND EXTENSIVE USE OF EMPLOYEE OVERTIME.

YET, ALL THESE STEPS MUST BE VIEWED AS TEMPORARY IN NATURE. WE NEED TO MAKE EVERY EFFORT TO GET NOAA THE ADDITIONAL PERSONNEL CEILING POINTS IT SO DESPARATELY NEEDS. I URGE THE SUBCOMMITTEE TO BEGIN IMMEDIATELY TO WORK WITH THE APPROPRIATE OFFICIALS IN OMB TO PROVIDE A REASONABLE LEVEL OF PERSONNEL CEILING RELIEF FOR NOAA.

AGAIN, I APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE YOUR SUBCOMMITTEE THIS MORNING ON BEHALF OF THE OCEAN AND FISHERIES PROGRAM OF THE DEPARTMENT OF COMMERCE AND I WOULD BE HAPPY TO ANSWER ANY QUESTIONS THE MEMBERS MAY HAVE.

APPENDIX I

SUMMARY OF CONGRESSMAN MURPHY'S
TESTIMONY BEFORE THE HOUSE
APPROPRIATIONS SUBCOMMITTEE ON
STATE, JUSTICE, COMMERCE, AND JUDICIARY

Ocean and OCS-related programs:
(In order of section designations in statute.)

A. Program Administration Grants (Sec. 306)

1. Administration request: $34.712 million

2. Mr. Murphy's request: $34.712 million

States need to be assured about the federal commitment to provide money for state implementation of their coastal management programs. New legislation recommended by the Administration and Members of Congress support continued reauthorization.

B. Coastal Energy Impact Program -- OCS Formula Grants (Sec. 308(b))

1. Administration request: $7.172 million

2. Mr. Murphy's request: $42.172 million

Congressional intent argues strongly for higher appropriation levels for these vital OCS-related grants and the carryover from this fiscal year is not intended to have impact on FY-81 appropriation levels. In 1978, the authorization level for these grants was raised from $50 million per year to $130 million per year.

C. Coastal Energy Planning Grants (Sec. 308(c)(2))

1. Administration request: no new budget authority

2. Mr. Murphy's request: $3.5 million

Vital planning funds for energy impacts in the coastal zone, including nuclear and coal-related activity. The Administration intended to fund $3.5 million by reprogramming of loan funds but it is uncertain whether any loan funds will be available.

D. OCS State Participation Grants (Sec. 308(c)(2))

1. Administration request: no new budget authority

2. Mr. Murphy's request: $4.0 million

Vitally important to the states who have vigorously asked the Congress for funding in this category. Accelerated leasing program recently announced by the Department of Interior makes these grants critical. Reprogramming, originally proposed by the Administration, may no longer be viable.

E. Coastal Energy Impact Fund -- Loans, Guarantees, and Repayment Assistance (Sec. 308(d))

1. Administration request: recission of $50.0 million with possible deferral of remaining monies in fund.

2. Mr. Murphy's request: no recission or deferral. Use of funds for reprogramming of section 308 (c)(1), section 308(c)(2), section 308(d)(4), and program management of CEIP.

If new appropriatons are not enacted for energy planning, OCS state participation, environmental grants, and program administration, such need to be funded by reprogramming from CEIF. Important programs for states to carry out their coastal management work and prepare for energy activity in the coastal zone. Loan funds are commitments made to states which should not be rescinded.

F. Estuarine Sanctuaries and Island Preservation (Sec. 314(1) and (2))

1. Administration request: $3 million

2. Mr. Murphy's request: $3 million

To properly match state funds to plan, acquire, and operate estuarine sanctuaries for research and development and to acquire islands for purposes of preservation.

G. Beach access (Sec. 315(2))

1. Administration request: no funding requested

2. Mr. Murphy's request: $15.0 million

Needed start-up money for new section 306A contained in legislation introduced by Mr. Studds and Mr. Murphy for low cost construction and other expenses associated with the designation of areas of preservation and recreation, urban waterfront and port revitalization, and beach access.

H. Coastal Management Program Administration and Ocean Use Planning and Assessment

1. Administration request: $5,201 million

2. Mr. Murphy's request: $5,201 million

Funding needed for the administration of the program and for the ocean use planning and assessment operation. The latter provides for strategic planning and analysis of ocean activities to identify coastal and ocean use conflicts in selected areas and development of policies for use of these resources that will result in maximum benefit to the Nation. The ocean use planning and assessment category includes $1.474 million which is part of the total $5,201 million.

I. Marine Protection, Research and Sanctuaries Act of 1972, Title III (Marine Sanctuaries)

1. Administration request: $2.25 million

2. Mr. Murphy's request: $2.25 million

Provides for the designation, preservation, and management of marine sanctuaries in offshore areas.

APPENDIX II

CHART ON FEDERAL BUDGETARY RECOMMENDATIONS FOR FY 1981
TO ACCOMPANY STATEMENT OF THE
HONORABLE JOHN M. MURPHY
BEFORE THE HOUSE APPROPRIATIONS SUBCOMMITTEE
ON STATE, JUSTICE, COMMERCE, AND JUDICIARY

I. Ocean and OCS-Related Programs:

	NOAA RECOMMENDATION	DEPT. RECOMMENDATION	PRESIDENT'S BUDGET	REP. MURPHY RECOMMENDATION*
1. Program Administration Grants (Sec. 306)	$ 34,712,000	$ 34,712,000	$ 34,712,000	$ 34,712,000
2. Coastal Energy Impact Formula Grants (Sec. 308(b))	45,692,000	7,172,000	7,172,000	42,172,000 (+35,000,000)
3. Coastal Energy Impact Planning Grants (Sec. 308 (c)(1))	3,500,000	0	0	3,500,000 (+3,500,000)
4. OCS State Participation Grants (Sec. 308(c)(2))	4,000,000	0	0	4,000,000 (+4,000,000)

*(and change from President's budget request)

	NOAA RECOMMENDATION	DEPT. RECOMMENDATION	PRESIDENT'S BUDGET	REP. MURPHY RECOMMENDATION*
5. Coastal Energy Impact Fund--Loans, guarantees, and repayment assistance--including funds for Sec. 308(d)(4) Environmental Grants and Administration of CEIP Program	$ 25,000,000	0	Recission of $ 50,000,000	No Recission or Deferral and No New Appropriation
6. Estuarine Sanctuaries (Sec. 315 (1))	3,000,000	3,000,000	3,000,000	3,000,000
7. Beach Access (Sec. 315(2))--including new Sec. 306A Provisions for Environmental, Urban Water-Front, and Beach Access Funds under new Legislation	5,000,000	0	0	15,000,000 (+15,000,000)

	NOAA RECOMMENDATION	DEPT. RECOMMENDATION	PRESIDENT'S BUDGET	REP. MURPHY RECOMMENDATION*
8. Coastal Management Program Administration and Ocean Use Planning and Assessment	$ 6,074,000	$ 5,193,000	$ 5,201,000	$ 5,201,000
9. Marine Sanctuaries	4,000,000	2,750,000	2,250,000	2,250,000
TOTALS:	$ 130,978,000	52,827,000	52,335,000	109,835,000 (+ 57,500,000)

	OTHER NOAA*	PRESIDENT'S BUDGET	EXPLANATION	REP. MURPHY RECOMMENDATION
1.	H.R. 4890--Commercial Fisheries Research and Development Act	$5,000,000	Not recommending any particular amount for add-on but calling attention of the Subcommittee to backlog of unfunded State project requests in excess of $5,000,000	$5,000,000 plus some funding to reduce backlog (+up to $5,000,000)
2.	H.R. 20--National Aquaculture Development Act of 1980	-0-	Not recommending any amount for add-on at this time but could recommend up to $4,000,000 in a supplemental bill depending upon the results of on-going studies on capital needs and on legal and regulatory restraints due for completion before the end of this year.	-0- (+up to $4,000,000 supplemental request)
3.	H.R. 5570 (S. 1656) or bill to be introduced--Fisheries Development Act	-0-		$1,500,000 plus 30 positions (+$1,500,000 plus 30 positions)
4.	Title XI Obligation Guarantee Program	Limitation of $100,000,000 on total amount of commitments for fishing vessels	Increasing limitation to $300,000,000 would allow $250,000,000 for fishing vessels and $50,000,000 for shoreside fisheries facilities.	Eliminate limitation or increase it to $300,000,000
5.	H.R. 6311--to effect savings in re Saltonstall-Kennedy Act	Savings of $15,800,000	Anticipates revenue from import duties on fisheries products of $35,800,000. President-through the Administration bill, H.R. 6311-proposes utilizing $20,000,000 for S-K programs and to effect a savings by transferring $15,800,000 to general fund of the Treasury. Committee has gone on record not to report legislation to effect this savings and to encourage the Subcommittee to see that the entire 35,800,000 is used for its intended purpose of carrying out S-K programs.	Eliminate savings (+$15,800,000)

* Mr. Breaux and Mr. Forsythe will support these requests but will make additional comments on [illegible]

	OTHER NOAA	PRESIDENT'S BUDGET	EXPLANATION	REP. MURPHY RECOMMENDATION
6.	Implementation of Fishery Conservation and Management Act of 1976	$30,400,000	Increase to full amount authorized--$40,000,000. Of this amount, the add-on of $5,500,000 would be earmarked for marine resources monitoring, assessment and prediction (MARMAP) along with 17 new positions; $2,000,000 for the Regional Fishery Management Councils; and $2,100,000 for enforcement, along with 51 new positions.	$40,000,000 and 68 new positions (+$9,600,000 and 68 new positions)
7.	Anadromous Fish Conservation Act of 1964	$2,000,000	Not recommending any particular amount for add-on but calling attention of the Subcommittee to backlog of unfunded State project requests in excess of $2,000,000.	$2,000,000 plus some funding to reduce existing backlog. (+up to $2,000,000)

IN SUMMARY:

I. I am asking for add-ons of $11,100,000 and 98 new positions, as follows:
(1) $1,500,000 and 30 new positions for implementing the fisheries development legislation, and
(2) $9,600,000 and 68 new positions for implementing the Fishery Conservation and Management Act.

II. I am calling the Subcommittee's attention for consideration of possible add-ons of up to $7,000,000 as follows:
(1) up to $5,000,000 on funding backlog of State's requests under the Commercial Fisheries Research and Development Act, and
(2) up to $2,000,000 for funding backlog of State's requests under the Anadromous Fish Conservation Act.

III. I am advising the Subcommittee of a possible supplemental request of up to $4,000,000 to carry out the National Aquaculture Development Act of 1980.

IV. I am recommending that the Subcommittee eliminate the limitation of $100,000,000 on the total amount of guarantees that could be entered into under the Title XI Obligation Guarantee Program or, in the alternative, increase the limitation to $300,000,000.

V. I am recommending that the Subcommittee not effect the President's proposed savings of $15,800,000 under the Saltonstall-Kennedy Act.

Commerce

BACKLOG OF UNFUNDED PROJECTS
P.L. 89-304

WE HAVE A BACKLOG OF REQUESTS FOR FY79 & FY80, TOTALING MORE THAN $2 MILLION PER YEAR, IN ADDITION TO THE STATE'S APPROVED ONGOING PROGRAMS. THE STATES HAVE INDICATED THAT THEY HAVE THE MATCHING CAPABILITIES AND NEED THE ADDITIONAL FUNDING FOR:

REGION	STATE & OTHERS	PROJECT EMPHASIS	FEDERAL COST FY79 ($1,000)	FEDERAL COST FY80 ($1,000)
FNW	WASHINGTON	SALMON OCEAN TROLL, PUGET SOUND NET, AND RECREATIONAL FISHERIES MANAGEMENT	593	632
	OREGON	EVALUATE OCEAN CONTRIBUTION OF SALMON HATCHERIES	82	36
	INDIANS	CONSTRUCTION AND EXPANSION OF SALMON REARING FACILITIES ON TRIBAL LANDS	49	24
		SUB-TOTAL	729	742
→ FSE	LOUISIANA	EXPAND STRIPED BASS STOCKING PROGRAM	30	40
	S. CAROLINA	ASSESSMENT OF ANADROMOUS FISH STOCKS	40	40
		SUB-TOTAL	70	80
FNE	MAINE & MASS.	EXPAND STREAM IMPROVEMENT AND DEVELOPMENT PROGRAMS FOR ALEWIFE AND OTHERS ANADROMOUS FISH STOCKS	116	73
		SUB-TOTAL	116	73
FSW	CALIF.	SOLVE WATER DIVERSION PROBLEMS WITH DESIGN AND CONSTRUCTION OF FISH SCREENS	200	200
		SUB-TOTAL	200	200

Region	State & Others	Project Emphasis	Federal Cost FY78 ($1,000)	Federal Cost FY80 ($1,000)
FAK	Alaska	Expand salmon data processing and analysis, management of mixed stocks, and improve optimum escapement estimates	1,072	928
		Sub-total	1,072	928
		Grand total	2,237	2,023

NOTE: All proposed programs would contribute to State/Federal management of anadromous fish stocks in territorial waters.

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Mr. MURPHY. Thank you, Mr. Chairman.

I hope the charts accompanying this statement will appear in the record, because they are very significant.

The stepchild of the government has been the ocean programs and the coastal programs of this country. At the slightest possible excuse, the Department of Commerce, with I think nothing more than slight pressure from OMB, has cut the vital programs that affect thirty-three of our states and of course our continental shelf and our coastal waters.

The return on the investment which is so minor—and I am sure that the subcommittee chairman, Mr. Breaux, and Mr. Forsythe indicated the modest numbers that we are talking about—the return on that investment is so great that not to fund these programs as we have recommended would purely not be in the interests of this country.

When we wrote the Outer Continental Shelf Lands Act we clearly laid on the formulas for states. We have the state of North Carolina at the present time, probably the only east coast state that is able to construct a refinery, because they have properly legislated into the Coastal Zone Management Act.

Our coastal energy impact formulas are vital to be funded. To defer payments because of carryovers by this Administration is not in the interests of this country. Maybe budgetarily it is easy to justify it with that red pencil so you get down to "the balanced budget".

But what we do is we seriously impact the programs that have been carefully laid on. Some states have deferred for just a short period of time their participation. And what we want to do is insure that we have the funding ready for these states; that we don't go to the states and say "We will give you federal consistency if you will write your programs to join with the federal program," and then all of a sudden we say that due to budgetary problems we don't have the funds to match them. We are talking about small matching areas and the size of the appropriations that we indicated.

This is the greatest cost effective program that this country has. It is the development of our fisheries. It is the development of our coastal zone properly in concert with environmental considerations. And I think that the number of acts that we have drawn together to accomplish this certainly are in our best interests.

We have come each year and we have seen these numbers cut. We have seen a lack of support from the different administrations, not just this administration, in these areas. We feel it is basically because we just don't have that advocate at the Department of Commerce that should take seriously the important return that the country would get on this modest investment.

Mr. HIGHTOWER. Thank you very much. We appreciate your comments. We think this will be very helpful to us when we get ready to mark up this bill.

Mr. MURPHY. Thank you.

TUESDAY, APRIL 1, 1980

LEGAL SERVICES CORPORATION

WITNESS

ROBERT EVANS, AMERICAN BAR ASSOCIATION

Mr. HIGHTOWER. Our next witness is Mr. Robert Evans of the American Bar Association.

Mr. Evans, you have a prepared statement. We will insert it in the record at this point and be happy to listen to any additional comments you might choose to make.

[The statement follows:]

AMERICAN BAR ASSOCIATION

GOVERNMENTAL RELATIONS OFFICE • 1800 M STREET, N.W. • WASHINGTON, D.C. 20036 • (202) 331-2200

STATEMENT OF

ROBERT D. EVANS

on behalf of the

AMERICAN BAR ASSOCIATION

before the

SUBCOMMITTEE ON STATE,
JUSTICE, COMMERCE AND JUDICIARY

of the

COMMITTEE ON APPROPRIATIONS

of the

UNITED STATES
HOUSE OF REPRESENTATIVES

on the subject of

LEGAL SERVICES CORPORATION
BUDGET FOR FISCAL YEAR 1981

April 1, 1980

Mr. Chairman and Members of the Subcommittee:

I am Robert D. Evans, Associate Director of the Governmental Relations Office of the American Bar Association. I appear here today at the request of Leonard S. Janofsky, President of the American Bar Association, to voice the Association's support for the budget request of the Legal Services Corporation for Fiscal Year 1981.

The Corporation's current budget is $300 million, or only about $10 for each poor person in this country. The Corporation has requested that its budget be increased to $353 million for the coming year. While you and your fellow members of Congress are faced with enormous problems in seeking to balance the budget and must weigh carefully a wide range of competing demands for limited funds, we urge you to give every possible consideration to meeting this request.

The Corporation has greatly impressed us with the responsible and creative manner in which it has addressed its congressional mandate of making civil legal services available to the nation's poor. In five years, the program has expanded its operations from a program serving 950 counties to one serving all 3200 counties in the country. The population served by Corporation-funded offices has also risen dramatically from 9.2 million in 1975 to 30.5 million in 1979. Yet the Corporation has implemented this tremendous expansion smoothly and with a minimum of problems.

The Corporation has also maintained throughout its existence a minimum of administrative overhead. The cost of the Corporation's home office and its regional offices has been consistently less than 3%. If its

budget request for FY '81 is met, the administrative costs would fall to less than 2%.

The Corporation, then, is a highly efficient operation which has used its past appropriations effectively and which deserves your confidence that it will administer further funding wisely and well.

Despite its considerable growth and its effective functioning, the Corporation remains far short of its objective of meeting the civil legal needs of the poor. By the end of the current fiscal year, the Corporation will be funding the equivalent of two attorneys for every 10,000 poor persons in this country, a meager level of services when compared to the better than 20 attorneys per 10,000 people in the population as a whole. The staffs of the Corporation-funded programs are overloaded with legal problems needing resolution. They are also substantially underpaid in comparison with other public-sector lawyers. The average starting salary for a legal services attorney in this country is $11,500, compared with roughly $14,000 in other public-sector legal offices.

The result of the enormous caseloads and low salaries has been a high degree of "burn-out" among attorneys and a high rate of turnover. Corporation-funded programs are experiencing a 26% turnover in lawyer staff each year. As a result, the great bulk of legal aid attorneys at any one time are relatively inexperienced attorneys who require more learning time on cases and are not likely to operate as efficiently and with as sound judgment as more seasoned attorneys.

The Corporation has requested a 9% budget increase to permit its field programs to compensate for inflation. In preparing our own budgets

for next year, I am aware that air travel costs will be 40-50% higher next year, that paper and printing costs will be 15-20% higher, that postage is likely to increase 20% next year, and that similar increases are likely in other areas. The Corporation's request is indeed modest in comparison with these anticipated increases. It will also not provide any significant relief to the problem of low salaries and high turnover.

The other major item in the Corporation's proposed budget increase is $10 million for meeting the legal needs of institutionalized persons. With few exceptions, most indigent persons in institutions do not have access to traditional legal services programs. Our policy-making House of Delegates in 1975 stressed the importance of establishing special programs of outreach to meet the needs of these isolated individuals in adopting the following resolution:

> RESOLVED, that the American Bar Association calls on the Legal Services Corporation to assure that civil legal services are made available no less to the poor in institutions than to other poor people. To meet this objective, the civil legal needs of confined juveniles, prisoners, and the mentally disabled should be ascertained and appropriate funds allocated.

We are pleased that the Corporation is turning its attention to this problem and hope that funds will be made available for this effort.

The Corporation also is becoming increasingly involved in encouraging members of the private bar to contribute free legal representation to indigent clients, and we are working closely with them to bring this result about. We have hired a full-time staff person whose sole mission

is to effect the establishment of formal pro bono programs at the state and local level. Many bars and many individual lawyers have been providing such free representation for many years. But we are trying to encourage other lawyers and other bars to become involved and to facilitate the matching of a volunteer lawyer with a poor person having legal problems in the lawyer's area of expertise.

Pro bono contributions of time by lawyers are not a new phenomenon. Such contributions have been made for decades; in fact, virtually all of the civil legal aid programs in existence before 1965 were started and sustained by the contributions of time and money by the private bar. But relying upon voluntary contributions to meet all, or even a significant portion, of the civil legal needs of the poor is unrealistic. The federal government recognized this factor in establishing the OEO legal services effort in 1965. While great progress has been made since then in supplying legal services to the poor, there remain great unmet legal needs. The organized bar will do its part to help meet these needs, but the Corporation will continue to bear the greatest burden in this effort.

While supporting wholeheartedly the Corporation's budget request, our Association strongly opposes the reimposition of the alien rider attached to the Fiscal Year 1980 appropriations measure. That rider provided that Corporation funds could not be used for the benefit of persons known to be in this country in violation of the immigration laws. There are serious questions regarding the constitutionality of

such class legislation. In addition, we have repeatedly opposed the imposition of restrictions on the types of legal representation that legal services attorneys can provide, believing that no political restrictions should be placed on the independence of legal services attorneys in the exercise of their professional judgement within the bounds of ethical responsibilities.

The Corporation is making it possible for disputes in our society to be resolved through conventional legal means and for the nation's neediest citizens to obtain enforcement of their legal rights. The consequences of not providing this means of legal redress may be even more costly to society than the modest cost of this program. We urge you to appropriate $353 million for the Legal Services Corporation for Fiscal Year 1981.

Mr. EVANS. Thank you.

I appear here on behalf of the American Bar Association in support of the Legal Services Corporation's budget for fiscal 1981. We believe that this is a program which has operated with extreme efficiency, very low administrative costs and has accomplished a great deal of good with the limited resources that have been available to it thus far.

In his budget message to Congress last year, President Carter said at that time that with limited budget funds available, he urged Congress to put money where it would be most likely to resolve problems and not create or perpetuate problems. We believe this is just such a program.

One item that I would mention in passing is that the Corporation has been experimenting over the last two years with a variety of methods, alternative methods of supplying legal services other than the traditionally used method of staffed attorney offices. These methods have primarily involved experiments with using the private bar through a paid basis and through a variety of pro bono programs.

This budget request includes $3.5 million additional for continuation of those programs during the next year. That is an effort which we particularly support.

Mr. HIGHTOWER. Mr. Evans, we are grateful for your comments. We appreciate very much the benefit of your testimony.

TUESDAY, APRIL 1, 1980.

INTERNATIONAL TRADE ADMINISTRATION

WITNESS

ERIC RIDDER, THE JOURNAL OF COMMERCE

Mr. HIGHTOWER. Our next witness is Mr. Eric Ridder from the Journal of Commerce. We would be happy to have your statement. Do you have a prepared statement?

Mr. RIDDER. Yes, sir.

Mr. HIGHTOWER. We will insert your entire statement in the record.

[The statement follows:]

TESTIMONY

OF

ERIC RIDDER

Before the Subcommittee on State, Justice,
Commerce, the Judiciary and Related Agencies
House Committee on Appropriations
for the U.S. Department of Commerce's
Worldwide Information and Trade System

April 1, 1980

Contact:

Janie A. Kinney
(202) 857-0220

Mr. Chairman and members of the Subcommittee, my name is Eric Ridder. I am the publisher of The Journal of Commerce, the daily business newspaper of the Knight-Ridder news chain. I am also the publisher of The Export Bulletin, a weekly report on all U.S. exports, and the U.S. Exporters/U.S. Buying Guide, a directory of U.S. exporters.

I appreciate the opportunity to testify today about the Department of Commerce's Worldwide Information and Trade System (WITS). I am concerned as a newspaperman and a businessman. As a businessman, I am concerned that my company, which has invested its own capital and creativity to develop a product, is now facing competition from the Federal Government. It is fundamentally unfair for the government to compete with private business with a product capitalized and subsidized at taxpayers' expense. At a time when the Congress and the President are desperately searching for ways to cut the budget, it is inconceivable to me that the Administration continues to seek funds for a multi-million dollar project which does little more than duplicate and compete with private sector information services.

As a newspaperman, I am alarmed about the First Amendment implications of WITS. Publications simply cannot compete with the Government as a major competitor. Suppliers of public information, such as our publications, could soon disappear. The

creation of a government monopoly is as chilling and detrimental to a free press as a prior restraint on publication.

Commerce claims that private export information services are too expensive and that they do not offer in one place all the necessary information. This rationale for WITS could just as easily be used by the government to justify the establishment of a government newspaper to compete with a daily newspaper. Certainly, the Miami Herald does not publish all the news some people might desire. And we do have to charge for the paper. Does this mean the government would be justified in setting up its own newspaper at a cheaper price? Armed with the WITS rationale, there are virtually no limits on what the government could do.

The free exchange of information through a free and competitive press is a fundamental liberty. It is an indispensable condition of nearly every other form of freedom.

The mere possibility of government competition will have a very real chilling effect on publications such as The Journal of Commerce. If that competition becomes a reality, the implications are even graver. Who will be able to compete with it? We will wake up one day and press activity will be controlled by the government as competitor.

Of course, the Federal Government has always collected information about its citizens, the economy, and our resources, in conjunction with the performance of legitimate government

functions. Much of this information has been made available to the public. This is a basic and important government role. However, WITS differs from these traditional activities in one fundamental way. The WITS information will be actively and sophisticatedly marketed in direct competition with the private sector, rather than simply being made available to the interested public.

Moreover, much of the data for WITS is being collected solely for the purpose of setting up this competitive system. I am aware that Commerce claims it does routinely collect the WITS information for other government purposes. This simply is not true. Just a few months ago, the Department sent out a 14 page questionnaire to approximately 300,000 businesses to collect the information on U.S. exporters needed for WITS. If the government already routinely collects such information, why was such an extraordinary massive mailing necessary? The answer is that WITS is far more than the mere dissemination of information it collects for real governmental functions.

The Journal of Commerce provides a number of publications and services designed for the exporting public. Our services have been designed to serve the small and medium-sized companies as well as the large sophisticated ones. Since 1827 The Journal has been tabulating and publishing information on U.S. foreign trade. In 1976, as a result of substantial and costly research, The Journal decided to publish a comprehensive Exporters

Directory/U.S. Buying Guide. The price of the Directory is only $150. The Directory contains information on more than 38,000 U.S. firms and their products. The first version of the Directory was published in 1977, and a 1979-1980 version of the Directory has just recently been issued. The Directory has been very well received. Although our major customers are U.S. companies that provide services to exporters, we are also beginning to build-up a good-sized foreign market. For example, the Japan Trade Mission is one of our major clients. Our sales to overseas markets has increased 80% in the last year.

The WITS file on U.S. suppliers will virtually duplicate our Directory information. The degree of overlap of the information can be seen from the attached chart. Once WITS is operational, it can be expected to cut deeply into the market for The Journal's Directory.

Even though the WITS file on U.S. suppliers is designed with the foreign customers in mind, our domestic clients will have easy access to WITS. Why should they continue to buy our information when they can get it more cheaply from a Federal program capitalized and subsidized by taxpayers' dollars?

The Journal of Commerce has invested substantial capital in developing its export information services. Collecting the initial data for the Directory was a major undertaking, and maintaining the Directory information requires substantial resources. The Journal employs 175 people in its foreign trade

information program, the majority of whom collect, verify, and process the information offered in the Directory and elsewhere. Information for the Directory is continually updated based on the information we collect for the Export Bulletin. Every day we check the shipper's manifests on exports leaving all U.S. ports. If this information reveals an exporter who is not listed in the Directory, we contact the exporter to obtain the information for the Directory. Obviously, the more names and information contained in the Directory, the more valuable it is as an information product. Thus, there is a definite incentive for The Journal to be as thorough and accurate as possible. This kind of incentive does not exist for a government information system such as WITS.

WITS' adverse competitive effect on The Journal is not limited to the Exporters Directory. The Journal offers other export information services, specifically the Export Bulletin and its Export Information Tabulation (EXIT), which may be affected as well. The Export Bulletin is a weekly report of domestic cargoes leaving U.S. ports. It lists actual shipments by product, shipper, quantity shipped, U.S. port of exit, name, city and state of the shipper. The EXIT service provides substantially the same information on tape. Both the Export Bulletin and EXIT are used by companies to identify U.S. companies who are exporting. According to the Department of Commerce, WITS will keep up-to-date information on U.S.

companies' export experience. Presumably this means who is shipping what, where, and when. Computer listings of this information will be available upon request.

Department of Commerce officials have sought to quiet our concerns about possible duplication and competition by asserting that while WITS will compete with the Directory, it will not compete with the Export Bulletin or EXIT. The Journal disagrees with this assessment. Many of The Journal's Export Bulletin and EXIT customers may find they can obtain the same information at lower costs from WITS.

WITS has various implications for The Journal's current development plans. The Journal realized that a hard bound Directory had limitations, so we invested substantial capital to have our EXIT and Directory information computerized. The EXIT data will be accessible by computer from anyplace in the world by June 1, 1980 and the Directory by 1981.

Because WITS will be accessible through remote terminals, and because the WITS data base will be so similar to The Journal's data base, WITS will compete directly with this new service.

Moreover, WITS will have a chilling effect on any future expansion plans of The Journal. Expansion of information services requires a substantial commitment by a private business. People must be hired, new data collected, and new computer or other communications equipment leased or purchased.

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All this costs money. Faced with the prospect that the government may step in and take one's market, any prudent publisher will think long and hard before undertaking anything new. The loser in all of this is the free marketplace. Expansion will not occur; innovation and improvements will come less quickly or may not come at all. All of this will be the direct result of WITS.

As I mentioned earlier, the Department of Commerce justifies its WITS activities on two separate grounds. Both are deficient in a number of respects. First, Commerce claims that no single service in the private sector offers all the data which will be offered through WITS. This is true. However, the justification is based on two very questionable assumptions. The first is that all of the information slated for WITS is essential if exports are to be increased. Since Commerce has just initiated its survey of potential WITS users to determine what information is needed, it is highly presumptuous of them to make any claims as to what kind of information is essential. Interestingly, foreign users surveyed in connection with another Commerce project characterized some of the WITS information as superfluous.

The second assumption is that all essential export information must be available from a single source. While one-stop shopping might be convenient, Commerce has never documented the necessity for this. Moreover, if the assumption is true, Commerce has failed to adequately study the possibility of

serving as a broker or clearinghouse for information from the private sector. This would avoid the necessity of Commerce duplicating the private sector's information while providing assistance to the public at the same time.

The other major justification for WITS is that private sector information services are too expensive for small and medium-sized companies who may be potential exporters. If this statement is correct, which we dispute, then there must be a better solution than having the government make the substantial capital outlay to duplicate what the private sector already offers just so it can sell it more cheaply. Not only is it unfair to the private sector, but is a gross waste of taxpayers' money. It would be far less costly to simply subsidize small companies' use of existing services if Commerce's claim is true.

I resent the fact that the Commerce Department has tried to portray the private sector as serving only large corporations and big businesses. The Journal has consistently offered inexpensive services geared to the small inexperienced exporter as well as more sophisticated services for the experienced exporter. Many of our customers are small and medium-sized companies. I strongly contend that these small businesses are far better served by a free and competitive marketplace than they will be by a government monopoly.

The WITS project is symptomatic of a very deep seated problem at the Department of Commerce. The Department seems

unable to recognize that information is a product, just as shoes or clothing or any other manufactured good. The private information industry is a multi-billion dollar industry. While the Department would not consider going into competition with the shoe industry, it is not the least bit hesitant to compete with the private information sector.

Information collected by The Journal under a freedom of information request shows just how casually the Department made its decision to undertake WITS. While giving lip service to the idea that it did not want to compete with the private sector, the Department made very little effort to determine precisely what services are offered in the private sector before it designed WITS. That effort was virtually nil with respect to services providing information on U.S. exporters. In a two hundred page report on business needs in export marketing, the Department spent barely a page discussing directories of U.S. firms. The report acknowledged that some of these directories receive wide circulation abroad, but it completely failed to recognize that WITS would compete with such directories in both the domestic and the foreign market.

In light of the major problems posed by WITS, I urge this Subcommittee to deny the Department of Commerce's appropriation request for WITS. This does not mean that the objective to increase exports through better information services should be

sacrificed. The objective can be accomplished through cooperation with the private sector.

The Department should be instructed to reevaluate its design for WITS and use existing publication services as the basic building block for WITS. Such an approach would be far more efficient because it removes the need for the government to spend money duplicating what already exists in the publishing and information sector.

This approach has another major advantage: a competitive marketplace. This means that the imagination and innovation of the private sector will continue to be available for export information. With the private sector, the incentive to constantly improve and upgrade the quality of the service always exists. With WITS as planned, those incentives will be lost.

Most importantly, this approach eliminates the very real threat to press freedom from the government as an information competitor. By saying no to WITS, this Subcommittee will be reaffirming the importance of a free information marketplace. Government domination or control of information dissemination is not compatible with the concept of a free society. It would be unacceptable to sacrifice our First Amendment principles under any circumstances. It is absurd to sacrifice them for a project as unnecessary and costly as WITS.

WITS Duplication of Journal of Commerce Services

Kind of Information	WITS	Journal of Commerce *
Firm Name	yes	yes
Address	yes	yes
Telex	yes	yes
Cable	yes	yes
Key Company Contact for Export Marketing	yes	yes
Telephone	yes	yes
Year Firm Established	yes	yes
Description of Firms Export Staff	yes	no
Firms Experience in Exporting	yes	yes
Firms Annual Sales	yes	yes
Annual Export Sales	yes	no
Number of Employees	yes	yes
Nato Bidder Qualification	yes	no
Foreign Marketing Objectives	yes	no
Foreign Markets Selling To	yes	yes
Foreign Markets Interested In	yes	no
Utilization of Department of Commerce Assistance Programs	yes	no
Firm is a Subsidiary	yes	no
Type of Business	yes	yes

Brand Names/Trademarks	yes	no
Products or Services	yes	yes
Bank References	yes	yes
Trade References	yes	no
Foreign Sales Representatives	yes	no
Other Information About Company (300 word limit)	yes	no
Port of Exit	no	yes
International Freight Forwarder	no	yes

* All of the listed information is not available on every company because certain companies have been unwilling to have such information published.

Mr. RIDDER. Sir, my name is Eric Ridder. I am the publisher of the Journal of Commerce. I am also publisher of the Export Bulletin and the U.S. Exporters/U.S. Buying Guide. I am here to testify in opposition to the WITS Program. Are you familiar, sir, with the WITS Program?

Mr. HIGHTOWER. Yes. We have had the opportunity to become acquainted with the WITS Program.

Mr. RIDDER. The points that I wish to make are first of all perhaps that because of the number of existing private sector people who are in this business, that this is a marvelous way to save a little money in the budget.

Number two, not only I, but the rest of the private sector who are in the business of providing export information to the export-oriented community, feel a very chill factor over our heads because the WITS Program would be in direct competition with what we are doing. The Commerce Department sort of brushes off this competitive aspect by saying, oh, well, we will be doing something different. Well, we do not perceive that they will be doing anything different. Not only me but the others who are in this industry perceive that they will be directly competitive with us.

This whole process of information data base gathering and dissemination is a very enormously expanding field. Those of us who are in it do not feel that we are doing the perfect job by any means. I suspect that if we did feel we were doing the perfect job, we would be fired and somebody else who could think of ways of improving should take our places. However, we do provide a service that, because we are private businessmen who have to meet payrolls, pay taxes and make a profit, have to test the market to find out what is salable. We do not sit in an ivory tower and decide this is what is good for the exporting community. We devise products and then go out and test the market and see whether the marketplace is interested in them.

The Department of Commerce WITS Program will duplicate an enormous amount of existing information. They feel that their service will be a one-stop shopping program and that if the people have to go to the private sector there might be two or three different places that they would have to go to find out this information.

I don't see that that is a reason for government to go into competition with private enterprise. I feel that there is a potential infringement on the First Amendment because if the Commerce Department can go into competition with private enterprise in supplying of a certain kind of information, the logical extension of that is that they could go into competition with newspapers all over the country. They could perceive that any given newspaper isn't really doing quite the job that should be done and by using the taxpayers' money and without any consideration of making a profit, go into competition with them.

That, very briefly, sir, covers the high point of my written testimony. I appreciate the opportunity to be here, sir.

Mr. HIGHTOWER. Thank you, Mr. Ridder. Your testimony, along with others that have testified, will be helpful to us as we try to prepare the bill for the Department of Commerce this year. We are

grateful for you taking the time to come and to give us the benefit of your thoughts.

Mr. RIDDER. Thank you, sir.

TUESDAY, APRIL 1, 1980.

BUREAU OF PRISONS

WITNESSES

MILFORD ZEIGLER, McDONOUGH CAPERTON SHEPHERD GROUP
W. JOSEPH McCOY, COMMISSIONER, WEST VIRGINIA DEPARTMENT OF CORRECTIONS

Mr. HIGHTOWER. We will be happy to hear from Mr. Milford Zeigler at this time. Do you have a prepared statement?

Mr. ZEIGLER. Yes sir, I have a report on the Demonstration Prisoner Rehabilitation and Community Revitalization Program.

Mr. HIGHTOWER. We will be please to accept this report and we will be happy to listen to any comments that you would like to make at this time.

STATEMENT OF MR. ZEIGLER

Mr. ZEIGLER. Sir, I am here on behalf of rehabilitation of prisoners. That is the type of program that can use labor to help neighborhoods, not only in our state but throughout the nation. By using programs of this type, with the help of private enterprise to buy materials, we can use prison laborers to take care of a lot of things needed by senior citizens, low and moderate income families, et cetera. By using this concept of prison labor, we can save as much energy as $45 million a year.

You have to read this whole context to understand where I am coming from. It may sound like I am an ex-con but I am not an ex-con. I have been concerned with this concept for the 15 years of my life that I have volunteered time to do this study and research.

Within this package you will find a copy of a study we just completed last year. It was called the Meadow View Home Project which was made for moderate and low income communities. But to go into a low and moderate income community with prison labor, it is another business to find materials. We find we can help our nation and our economy.

We have something to offer that can help not only our state but the nation, that is the poor population that has been left out for many years. There is a grant for so much money, hypothetically, $400,000, and I have made a proposal for $250,000. We have received $157,000 to go back into the community, and not in a big overhead flow that there has been in the past.

So we think that is a way to take care of the low and moderate income senior citizens. It is better to have senior citizens in a neighborhood complex instead of an institution because the life expectancy in an institution is very short.

For low and moderate income families today, energy conservation is very costly. The costs of fuel is very high. By winterizing, we can save and help our nation.

Mr. HIGHTOWER. Mr. Zeigler, we are happy to have the benefit of your testimony.

Your name, sir?

Mr. MCCOY. I am W. Joseph McCoy, Commissioner of the Department of Corrections for the State of West Virginia.

Mr. HIGHTOWER. We will be happy to hear from you.

STATEMENT OF MR. MCCOY

Mr. MCCOY. Mr. Zeigler, as he mentioned in his statement, organized, arranged, and facilitated a pilot project that was completed last year in the City of Charleston, West Virginia, the renovation of the Mattie V. Lee Home for Young Girls. This facility was tremendously dilapidated.

The pilot project was in fact the utilization of inmate labor from the Huttonsville Correction Center, a medium security institution. These inmates did all the labor, all of the skilled labor. We took a risk; and instead of providing armed correctional officers, we provided a correctional officer supervisor who was not armed. This project was tremendously helped along, made possible, I should say, by the community support that characterized it. Most of the citizens involved in that home, which is a nonprofit organization, were black citizens in the City of Charleston, and those citizens tremendously supported and facilitated those inmates who worked there, provided meals to them, and provided recreation in the evening, such as readings. This was a tremendous supportive project that had a tremendous benefit for the community.

We in corrections considered that as a pilot project and it was tremendously successful. Now we would greatly welcome the opportunity to extend that further and with the assistance of funds from the housing and urban development, extend that project throughout the state of West Virginia using inmate labor to renovate and insulate the homes of low income persons, many of which would be elderly persons and also in a few instances, to renovate community buildings, particularly in communities where there are not sufficient local resources to do that.

We envision during the first year perhaps being able to employ as many as 50 inmates and by the end of the second year, employing approximately 150 inmates. We think it is a very, very viable concept and we do have this pilot project and the successful conclusion of this pilot project to back us up and provide evidence for the success of this type of an operation.

As Commissioner of Corrections I am very, very concerned and desirous that we have the opportunity to do this because I am sure, as you know, sir, that one of the major problems in corrections today is the problem of idleness in institutions. As a result of numerous Supreme Court decisions at the federal and state level, it is becoming increasingly difficult to find meaningful occupational opportunities for inmates within correctional institutions. We are confronted with this dilemma. We educate them, but then we do

not have the opportunity to provide the meaningful work experience that this type of education needs.

At the Huttonsville Correctional Center, we have an excellent diagnostic and classification unit. As I am sure you probably know, sir, in corrections one of the most certain things is that if you do have a good diagnostic program, you can in fact select inmates who will be reliable once they are released outside of the institutional confines. So we have that capability.

Another thing, we believe that based on our experience with the Mattie C. Lee Home, that this is a meaningful rehabilitation strategy because it gives inmates an opportunity to become deinstitutionalized, an opportunity to perfect a meaningful skill. I might add that I believe that energy conservation in the building trades is becoming a growth employment area. So these are meaningful occupations we would be preparing the inmates for.

We also believe that this type of community based experience assists an inmate in becoming deinstitutionalized and adapting himself once again to the community. We all, of course, realize that about 98 percent of all inmates do eventually return to the communities either on parole or maxing out their sentences.

We in the Department of Corrections would greatly welcome the opportunity to provide the inmates for the labor in this project that Mr. Ziegler has very skillfully and diligently developed. We believe that as a pilot project, it could be replicated throughout the United States. We believe that it would be a tremendous benefit to our inmates and distinctly help the Department of Corrections achieve both of its major objectives, that is, providing absolute public safety by having safe secure institutions, but at the same time provide for the rehabilitation of inmates.

I certainly appreciate the time that the committee has given us to come here and make this presentation.

Mr. HIGHTOWER. Commissioner, thank you, and Mr. Zeigler, we are grateful for your presence here today and your testimony.

Of course it is sad for us that your friend and former Congressman John Slack, who was for many years the Chairman of this committee, is not with us, but we know of his strong support. We are grateful for you and your work that you are doing. Thank you very much.

Mr. MCCOY. Thank you, sir.

TUESDAY, APRIL 1, 1980.

GENERAL ADMINISTRATION, DEPARTMENT OF COMMERCE

WITNESS

DAVID L. MAGGARD, DIRECTOR OF ATHLETICS, UNIVERSITY OF CALIFORNIA

Mr. EARLY [presiding]. The committee will come to order.

Mr. David Maggard is our next witness. We will submit your entire statement at this point in the record and you may now summarize it.

[The statement follows:]

STATEMENT OF

DAVID L. MAGGARD

on behalf of the

NATIONAL COLLEGIATE ATHLETIC ASSOCIATION

before the

SUBCOMMITTEE ON STATE, JUSTICE, COMMERCE & JUDICIARY
COMMITTEE ON APPROPRIATIONS, U.S. HOUSE OF REPRESENTATIVES

April 1, 1980

Mr. Chairman, Members of the Subcommittee:

My name is David L. Maggard; I am Director of Athletics at the University of California (Berkeley). I appear here today in my capacity as Chairman of the International Relations Committee of the National Collegiate Athletic Association. I have been authorized to say, however, that the views I express herein are shared by the National Federation of State High School Associations, an organization comprised of state high school athletic associations throughout the United States.

The NCAA is an educational association of over 800 four-year colleges and universities, and is primarily concerned with the promotion and regulation of intercollegiate athletics. Because so many college student-athletes and college coaches are involved in international competition on behalf of the United States, the NCAA and its members take a direct interest in the administration of our international amateur athletic effort. For this reason, the NCAA was an active participant in development of the principles of the Amateur Sports Act of 1978 -- which rewrote the Congressional charter of the United States Olympic Committee -- and is presently a member of the USOC.

As you are aware, the Administration's budget contains a supplemental appropriation request for fiscal year 1980, in the amount of $4 million, for use by the USOC. The NCAA appeared before this Subcommittee a year ago to express its opposition to a proposed appropriation for the USOC's use; I appear here today to renew and underscore that opposition.

In our view, expenditure of taxpayer funds on behalf of the USOC is not in the national interest -- essentially because the USOC has by its own actions demonstrated that it is primarily an instrument, not of the American people or the American amateur athletic community, but of the International Olympic Committee and other international amateur sports organizations located abroad, beyond the reach of our law. As such, it is not in our judgment a proper beneficiary of public monies.

* * * * *

To detail our opposition, I must first give you a basic outline of the international amateur sport structure. At the pinnacle of this structure stands the International Olympic Committee, a private, self-perpetuating organization, responsible to no one except itself. The countries of the world do not choose their delegates to the IOC; the IOC, rather chooses its representatives to each of the countries participating in the Olympic movement.

All of the IOC's power -- and that power is enormous -- stems from a de facto acceptance of that power by virtually everyone concerned with the conduct of amateur sports competition between individuals representing different nations and, in the last analysis, by the capacity

of the IOC to declare an amateur athlete ineligible for participation in the Olympic Games. In the business world, the IOC would be properly called a cartel; indeed, its power in international amateur athletics is considerably greater than is the power of OPEC in controlling the world's oil supply.

For each of the Olympic sports, the IOC recognizes an "international sport federation", or "IF", and in general, each of these federations recognizes or accepts a member in each country where its sport is practiced. These members of the IF's in each country are called "national governing bodies". It is the international sport federations which in fact organize the various competitions at the Olympics, and to a greater or lesser degree, these federations control, or purport to control, all international competition in their sports -- not just the Olympics. Like the IOC, all of these federations are headquartered abroad, and as private bodies, are responsible to no one but themsleves. Like the IOC, their power derives in the last analysis from their capacity to declare athletes ineligible for international competition, and in their respective sports, their monopoly power is no less restrained than that of the IOC in Olympic matters.

In addition to recognizing international sport federations, the IOC also recognizes "National Olympic Committees", or "NOCs". The USOC is of course the National Olympic Committee recognized in the United States by the IOC, and in accord with a specific requirement of IOC rules, the U.S. members of the various IOC-recognized international sport federations -- the "national governing bodies" -- enjoy majority

voting control at all levels of the USOC. The fact that the USOC is controlled by these U.S. members of the international federations is an important one to remember; in truth, the USOC is nothing more or less than a consortium of the NGBs, functioning at their common will. U.S. national sports organizations -- like the NCAA, the National High School Federation, the YMCA or the Armed Forces -- enjoy a very small voice in USOC affairs.

At the outset of this discussion, I stated that our opposition was based on the fact that the USOC, rather than being an instrument of or responsible to the American people, is in fact an instrument of foreign private entities. Organizationally, this would seem obvious -- the USOC exists as part of the Olympic movement only by virtue of its recognition by the IOC, and under IOC rules, it must be controlled by the U.S. instrumentalities of the IOC-recognized international sport federations, that is, the "national governing bodies" for Olympic sports in this country. When we look at the IOC Rules, the subservience of the USOC to the IOC is even clearer. IOC Rule 24 states that National Olympic Committees "must never associate themselves with any undertaking which would be in conflict with the principles of the Olympic movement and with the Rules of the IOC"; IOC Rule 23 says that "The IOC is the final authority on all questions concerning the Olympic Games and the Olympic movement." In short, the USOC is expressly subject to the IOC's mandate.

The USOC's abiding fealty to the IOC is not, however, confined to mere "rules" or organizational structuring. Recent events demonstrate

graphically where the USOC's basic loyalties lie. Thus, since January 1, the USOC has pursued a course which at best can be described as dilatory, and at worst obstructive, with reference to our Government's decision that Moscow was an inappropriate site for the Olympic Games, and that the U.S. must boycott the Games. In essence, the USOC has attempted to arrogate, to itself, decisions as to the proper course of national policy.

The most recent manifestation of this chosen course was the announcement by the USOC leadership, near the end of the Lake Placid Olympics, that only the USOC House of Delegates -- not meeting until mid-April -- could consider the boycott question. This announcement was made notwithstanding the fact that the USOC Executive Board, meetings of which can be called on 15 days' notice, is expressly empowered by the USOC Constitution to "have general charge of the business, affairs and activities of the USOC and . . . [to] define the policies to be followed in carrying out the purposes and objects of the USOC. . . ."

There is simply no truth to the USOC's assertion of the need for House of Delegates action; it is made for no purpose other than delay. I submit to you that an organization prepared to engage in such conduct, to the detriment of support for a decision of our national government, is simply not entitled to financing by the American taxpayer. Particularly is this so when delay on the part of the USOC can only work a cruel disservice to American athletes, by perpetuating the hope that they will still go to Moscow -- even in the face of the most categorical statements to the contrary by the Administration -- and as a practical matter, preventing the planning and implementation of an alternative international event for our athletes.

As I stated earlier, this is not the first occasion upon which the NCAA has appeared before you to oppose the appropriation in favor of the USOC. Approximately one year ago, our representative appeared before this Subcommittee to express opposition to any such appropriation "unless and until the USOC demonstrates its full commitment to the principles of the Amateur Sports Act of 1978". I regret to say that even leaving aside the USOC's conduct on the boycott issue, no events have intervened to indicate any greater USOC commitment to the Act, and our opposition thus remains unabated.

Specifically, our testimony last year made reference to the importance of final and binding arbitration to the successful implementation of the principles of the Amateur Sports Act. As some members of the Subcommittee are already aware, the Act by its terms sets up certain specific standards for the structure and operations of the "national governing bodies" in this country - that is, those who seek to act in this country as the member of the international sport federation for their respective sports, and thus to act as a member of the organizational group controlling the USOC itself. To assure adherence to these standards, the Act calls for mandatory and binding arbitration by the national governing bodies, either at the initiative of an individual or group filing a "complaint" against a national governing body, or at the initiative of another sports organization, believing itself better qualified to act as national governing body, filing a "challenge" against the incumbent for national governing body status.

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As noted in the testimony of the United States Wrestling Federation, a "challenge" procedure existed in the USOC Constitution prior to passage of the Amateur Sports Act, and the Wrestling Federation -- after a long and expensive arbitral procedure -- was declared entitled by three independent arbitrators, in September 1978, to replace the Amateur Athletic Union as the national governing body for wrestling in this country.

The AAU, supported by most of the national governing bodies controlling the USOC, was not fazed in the slightest by its arbitral loss, nor by its agreement to be bound by the result. Rather than stepping aside in favor of the winning Wrestling Federation, the AAU refused to resign from the international sport federation for wrestling, and declared that the matter could only be decided abroad by the international federation for wrestling, FILA. In effect, the AAU -- having lost on the merits of the "binding" arbitration -- was making a sham of the widely-touted USOC challenge procedure, simply by ignoring it.

Early last year -- recognizing the inherent futility of an arbitration process in the face of conduct like that pursued by the AAU in wrestling -- several members of the USOC supported an amendment to its Constitution, to require that in the event of a future "challenge" arbitration, a losing incumbent would be required to <u>resign</u> from the international federation, in order to clear the way for the winning challenger.

This proposed amendment, along with many others, was considered by the USOC House of Delegates in April 1979. Two hours before the USOC delegates were to vote on this and another amendment assuring

the effectiveness of the arbitration process, Senator Ted Stevens -- principal author of the Amateur Sports Act in the Senate -- made clear to the delegates the intention of the Congress that arbitrations conducted under the terms of the Act must be "final and binding" and not subject to the control of a foreign organization. In his keynote address to the meeting, Senator Stevens said:

> "In order for the Amateur Sports Act to be effective, arbitration must be on demand, swift, and final. Without binding arbitration, and without arbitration on demand, there can be no true enforcement of the Act.
>
> Furthermore, many of you will remember the great pains we took in the consideration of the Act to avoid any reference to any powers of the International Olympic Committee or the international governing bodies. That was intentional. The Congress cannot support and authorize the funding of an organization which is not directly accountable to the American people for its action and in control of its own destiny. It cannot take direction from any international group regarding internal matters. . . .

Notwithstanding this categorical advice from a principal author of the Act, the USOC delegates promptly defeated, by a wide margin, the proposal to require that in future arbitrations for national governing body status, a losing incumbent would be required to resign. Instead, the delegates reinserted into the USOC Constitution a provision with respect to challenge arbitrations which expressly subjects the arbitrations to the IOC rules, including the rule that the USOC may not recognize a national governing body other than the national governing body recognized by the international sport federation. In other words, rather than strengthening domestic determination of national governing body status through binding arbitration, the delegates expressly chose to weaken it, effectively leaving determination of these critical matters under the Act to foreign private bodies.

Why, you might ask, would the delegates so overtly set out to emasculate the arbitration process, particularly when they were being told by the USOC's good friend in Congress that to do so would jeopardize the very appropriation now before you? I submit that the answer can be found in the fact that the national governing bodies control the USOC House of Delegates, and the last thing in the world that most of them want is an effective challenge arbitration procedure. A "cosmetic" one, fine, if that's what it takes to look good to the Congress -- but one which actually means they might be displaced from their incumbency after a fair hearing on the merits, not on your life! Incumbency, we submit, is far more important to those controlling the USOC, than a $4 million appropriation.

There are two footnotes to this scenario. First, the AAU's reward for its refusal last year to resign from the international sport federation for wrestling (FILA) was a solid endorsement of its position by FILA. When the Wrestling Federation appeared before FILA in May 1979 to attempt to persuade FILA to honor the 1978 arbitral award, it was formally told that FILA, and not U.S. arbitrators, would decide national governing body status in this country.

Upon learning of this latter action by FILA, Senator Stevens wrote to USOC President Kane on June 4, 1979, as follows:

> This action by FILA must not be allowed to stand. As I stated in April to the convention delegates, in order for the Amateur Sports Act to be effective, arbitration must be <u>on demand, swift, and final</u>. Without

> binding arbitration, there can be no true enforcement of the Act. It is imperative that the United States Olympic Committee support the Act and show strong leadership on this issue. It threatens to both destroy the effectiveness of the Act and stand in the way of efforts to successfully appropriate funds needed to implement it . . .
>
> Should this controversy continue to be outstanding at the time we try to get approval from Congress for the $16 million for the Amateur Sports Act, I have serious concerns as to whether or not our efforts will be successful. It is important that during these early days following enactment of the bill that we exercise strong leadership and dedication to the principles espoused in the Amateur Sports Act.

As noted in the Wrestling Federation testimony, the only "strong leadership" recently exercised by the USOC in this matter has been publicly to endorse a FILA proposal that AAU remain the national governing body and that the Wrestling Federation now join the AAU as its reward for having proven itself more qualified than the AAU to act as the national governing body in this country for wrestling.

The second footnote I would draw to your attention is the fact that two amendments are now again pending before the USOC House of Delegates, the first of which would eliminate reference in the arbitration provisions of the USOC Constitution to the rules of the IOC, and the second of which is a renewal of the amendment, offered last year, to require a losing incumbent to resign from the international federation, to clear the way for the winning challenger in arbitration. Not unexpectedly, the USOC Executive Board, meeting last January, has recommended that the House of Delegates defeat both amendments.

I respectfully submit to you that the action of the USOC House of Delegates, which will occur in the next two weeks, is highly relevant

to the issue whether the Congress should seriously consider an appropriation of taxpayer funds to the USOC. Passage by the USOC House of Delegates of both of these amendments would be tantamount of saying that national governing body status is going to be finally decided in this country by domestic institutions, and not by private entities abroad. It seems to us that only in such circumstances is the USOC really entitled to seek public taxpayer funds to assist it in its programs.

We submit to you that the USOC cannot have it both ways: On the one hand, both with reference to the current dispute over the Moscow Olympics and also with reference to binding arbitration under the Amateur Sports Act, the USOC continues to pander to the "supremacy" of the IOC and the international sport federations recognized by the IOC. On the other hand, the USOC seeks the appropriation of U.S. taxpayer funds to support its programs.

In point of fact, numerous National Olympic Committees around the world are financed and even controlled by their respective national governments, and nonetheless seem to have no difficulty with the IOC or the international sport federations in structuring themselves and operating in accordance with their own perceived national interests and with responsibility, first and foremost, to their own national institutions.

To date, neither the USOC, nor most of the national governing bodies that control the USOC, have demonstrated the capacity or the will (for many years successfully demonstrated by other National Olympic Committees) to embrace and assert the preeminence -- or "supremacy" -- of U.S. national interests and institutions in the conduct of our international amateur sports effort. Until they do, we assert that they are not deserving of taxpayer assistance.

Mr. MAGGARD. Yes, sir. Mr. Chairman, my name is David Maggard. I am the Director of Athletics at the University of California at Berkeley.

I appear here today in my capacity as Chairman of the International Relations Committee for the NCAA. I have been authorized to say, however, that the views I express herein are shared by the National Federation of State High School Associations, an organization comprised of State High School Athletic Associations throughout the United States.

As you are aware, the Administration's budget contains a supplemental appropriation request for fiscal year 1980, in the amount of $4 million for the use by the USOC. The NCAA appeared before this subcommittee a year ago to express its opposition to proposed appropriations for the USOC's use. I appear here today to renew and underscore that opposition.

Before outlining our reasons for this continuing opposition, I wish to make one clarifying point. As you are aware, the NCAA is a member of the USOC, having rejoined the USOC about two years ago. I ask that you not interpret this fact of membership as in any way representing NCAA support for the present USOC position of calculated ambivalence, if not defiance, toward the decision of our government on the boycott of the Moscow Olympics. We find unfortunate the failure of the USOC leadership to give prompt commitment of support to the President's decision. We do not in any way wish to be associated with the apparent continuing USOC efforts to second-guess our nation's foreign policy.

Turning now to the proposed appropriation, I point out first that our testimony last year made reference to the importance of final and binding arbitration to the successful implementation of the principles of the Amateur Sports Act. As some members of the subcommittee are already aware, the Act by its terms sets up certain specific standards for the structure and operations of the "national governing bodies" in this country. That is, those who seek to act in this country as the member of the international support federation for their respective supports, and thus to act as a member of the organizational group controlling the USOC itself.

To assure adherence to these standards, the Act calls for mandatory and binding arbitration by the national governing bodies, either at the initiative of an individual or group filing a complaint against a national governing body, or against the initiative of another sports organization, believing itself better qualified to act as a national governing body filing a challenge against the incumbent for national government body status.

As noted in the testimony of the United States Wrestling Federation earlier today, a challenge procedure existed in the USOC constitution prior to passage of the Amateur Sports Act, and the Wrestling Federation, after a long and expensive arbitral procedure, was declared entitled by three independent arbitrators in September 1978 to replace the Amateur Athletic Union as a national governing body for wrestling in this country.

The AAU, supported by most of the national controlling governing bodies, was not fazed in the slightest by its arbitral loss, nor by its agreement to be bound by the result. Rather than stepping aside in favor of the winning Wrestling Federation, the AAU re-

fused to resign from the International Sport Federation for Wrestling and declared that the matter could only be decided abroad by the International Federation for Wrestling, FILA. In effect, the AAU, having lost on the merits of the binding arbitration, was making a sham of the widely-touted procedure simply by ignoring it.

About this time the Amateur Sports Act became law and, as you know, the Act contained as one of its cornerstones a concept of binding arbitration for national governing body challenges. Early last year, recognizing the inherent futility of an arbitration process, even under the Act, in the face of conduct like that pursued by the AAU in wrestling, several members of the USOC supported an amendment to its constitution to require that in the event of a future challenge arbitration, a losing incumbent would be required to resign from the International Federation in order to clear the way for the winning challenger.

This proposed amendment, along with many others, was considered by the USOC House of Delegates in April 1979. Two hours before the USOC delegates were to vote, Senator Stevens, who is a principal author of the Amateur Sports Act in the Senate and the keynote speaker at the USOC meeting, made clear to the delegates at that time the intention of the Congress that arbitrations conducted under the terms of the Act must be final and binding and not subject to the control of a foreign organization. Notwithstanding this categorical advice, the USOC delegates promptly defeated by a wide margin the proposal to require that in future arbitrations for national governing body status, a losing incumbent would be required to resign.

Thus, the USOC House of Delegates, although well aware of the mockery already made by the AAU of any finality to the challenge arbitration process of wrestling, studiously refused to adopt a mechanism which would, as a practical matter, have achieved such finality in future arbitrations under the Act.

One may legitimately inquire whether the delegates were really interested in creating an enforceable arbitration process at all. I wish to draw your attention to the fact that this issue is once again before the USOC House of Delegates. In about 10 days the delegates will meet to consider various constitutional amendments. Among them is the renewal of the amendment last year to require a losing incumbent to resign after arbitration and clear the way for a winning challenger. Not unexpectedly, the USOC Executive Board meeting last January recommended that the House of Delegates defeat the amendment. But the margin of defeat was quite narrow. Incidentally, the athlete representatives voted solidly in favor of the amendment.

I respectfully submit to you that the upcoming action of the USOC House of Delegates on this amendment is highly relevant to the issue of whether the Congress should seriously consider an appropriation of taxpayer funds to the USOC. Passage of the amendment would represent strong evidence of the USOC's intent that national governing body status is going to be decided in this country by domestic institutions and not by private entities abroad. It seems to us that only in such circumstances is the USOC really

entitled to even seek public taxpayer funds to assist it in its programs.

Thank you.

Mr. EARLY. Thank you for your statement.

We have a $4 million supplementary request for the Amateur Sports Act. Are you people in favor of, implementing the Amateur Sports Act?

Mr. MAGGARD. No, sir, not under the circumstances, because we feel the USOC is controlled by the International Federation and basically by the IOC and is not really serving the needs and the wishes of the American people. We do not feel that they have adhered to the Amateur Sports Act. We feel that until they adhere or abide by the Amateur Sports Act, we do not feel that they should even be seeking taxpayer funds. I am not saying that we would even support it then.

Mr. EARLY. I appreciate your statement. I assure you the members will see it. We don't get many requests not to fund a particular program.

Thank you.

TUESDAY, APRIL 1, 1980.

IMMIGRATION AND NATURALIZATION SERVICE

WITNESSES

MICHAEL HARPOLD, PRESIDENT, NATIONAL IMMIGRATION AND NATURALIZATION SERVICE COUNCIL OF THE AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES
RICHARD L. BEVANS, PRESIDENT, NATIONAL BORDER PATROL COUNCIL OF THE AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

Mr. EARLY. We will now hear from Mr. Harpold.

Mr. HARPOLD. I would like to submit my statement for the record and summarize it.

STATEMENT OF MR. HARPOLD

Mr. EARLY. Fine. We will make your statement a part of the record at this point.

[The statement follows:]

NATIONAL IMMIGRATION AND NATURALIZATION SERVICE COUNCIL
OF THE
American Federation of Government Employees

Affiliated with AFL-CIO

In Reply Please Refer To:

STATEMENT

OF

MICHAEL G. HARPOLD
PRESIDENT

BEFORE

THE

COMMITTEE ON APPROPRIATION
SUBCOMMITTEE ON STATE, JUSTICE, COMMERCE AND THE JUDICIARY
HOUSE OF REPRESENTATIVES

ON

APRIL 1, 1980

EMPLOYEE MORALE

The Subcommittee is well aware that the Immigration and Naturalization Service has little in the way of property, hardware or other inanimate items. It gives out no money nor does it administer grants in aid. Rather, the sole asset of the Immigration and Naturalization Service is the ten thousand employees who work in the Immigration and Naturalization Service. Ninty-nine percent of the budget request before you is for the salary, benefits and support of those employees as they go about their statutorily mandated tasks. The Union feels, therefore, that the single most important element in determining whether the Immigration and Naturalization Service can fulfill its mission today or will be prepared to do so in the future is the ability of the employees of the Immigration and Naturalization Service to efficiently and effectively carry out the mission of the Agency. The most serious threat to that efficiency at the present time is poor employee morale.

Employee morale is adversely affected today in three principal ways. First, the uncertainty over this nation's immigration policies and conflicting and often ambiguous direction from the Administration lead employees to question whether they are supported in their efforts. Second, similar questions arise from the lack of adequate resources to perform assigned functions, and as a consequence, our employees have become very discouraged. Finally, the Administration at all levels, including management within the Immigration and Naturalization Service has failed to move rapidly enough and frequently

not at all to resolve employee problems.

While we are appreciative of Acting Commissioner Crosland's efforts to set the record straight regarding news articles that describe Immigration and Naturalization Service employees as brutal and corrupt, it must nevertheless be recognized that employee morale is in a very seriously deteriorated state. It is not enough to say that Immigration and Naturalization Service employees "...are somewhat frustrated and concerned about what they perceive as lack of support on the part of those of us here in Washington."

In my 15 years with the Immigration and Naturalization Service and a decade as a Union leader, I have never been more alarmed concerning the state of employee morale. I am most fearful that we again hear the refrain which we heard so frequently on the heels of an earlier scandal in 1972 and 1973, "nobody cares, so what's the difference." At that same moment, Immigration and Naturalization Service management told a Congressional subcommittee that employee morale was "magnificent, how else could it be anything but excellent when so many employees are performing so magnificently in the face of such difficult circumstances."

This Union has undertaken great efforts in the past several months to ensure that both the Department of Justice and Immigration and Naturalization Service management are aware of the morale situation within the Service. It is not enough to beef up the Internal Investigations Unit or appoint a

Special Investigator. We believe that the situations calling for such remedies can be avoided. We would like to recommend to you what we feel can be done to address the problem.

CHANGES IN THE LAW

The single greatest factor adversely affecting employee morale is what the employees perceive to be the degradation of the Immigration and Nationality Act. We take the law seriously. It is our job. It affects our dignity as well as the dignity of this nation that the law is not only so consistently violated with impunity, but that the majority of our countrymen seem either to condone such widespread violation of it or at best to remain indifferent to it. Major segments of the economy profit from the large number of illegal entrants.

We are aware that the Select Commission on Immigration and Refugee Policy is studying the revision of the Immigration and Nationality Act and will report its findings, we are told, by the end of the year. We are also aware that enactment of new and hopefully more viable laws will probably not occur for a year or two thereafter. We are, of course, frustrated by the length of time required by the political process. While we are willing to await the actions of the Congress, we question the fact that nothing can be done in the meantime. We feel that there exists sufficient consensus regarding the framework and principle elements of the solution to the problem to enable the Congress and the Administration to proceed with remedial

legislation in many areas now. We are encouraged that the Congress is acting on the Immigration and Naturalization Service Efficiency Package and remedial legislation for the families of lawful resident aliens. More can be done, however, and we urge the Committee to proceed in other areas where improvements can be made.

LACK OF RESOURCES TO PERFORM THE JOB

In its budget planning for FY 1981, the Immigration and Naturalization Service estimated the following increases in its workload:

	1979	1980	1981
Persons admitted at Ports of Entry	274,000,000	286,000,000	291,000,000
Aliens Denied Entry	950,000	980,000	1,011,000
Smugglers Apprehended Nationwide	17,000	14,000	14,000
ADIT Cards issued	700,000	900,000	900,000
Illegal Status Leads	134,000	135,000	135,000
Deportable Aliens Located	143,000	132,000	132,000
Investigative Cases Pending	134,000	146,000	162,000
Investigative Cases Completed	59,000	55,000	55,000
Applications and Petitions Received	1,788,000	1,860,000	1,971,000
Cases Pending	258,000	350,000	392,000

In the categories marked "Smugglers Apprehended", "ADIT Cards Issued", "Deportable Aliens Located" and "Investigative Cases Completed", figures were

taken from the Zero Base Budget Decision package most closely related to the Administration request. Several important programs such as Anti-Smuggling will simply mark time because no new resources were requested. In other areas such as Investigations and Adjudications, backlogs will continue to grow.

It seems to us that the Administration has chosen simply to mark time until some uncertain date in the future when all will be magically revealed concerning the solution to the nation's immigration problem. At that time, I suppose, adequate resources will be requested. But what resources will it take to reduce the massive backlogs that continue to grow in all of our Service activities and our investigative activities? How many people will the agency have to hire and retrain to replace those employees who finally out of frustration leave the Immigration and Naturalization Service?

LACK OF RESOURCES TO PERFORM THE JOB

The Administration in the FY 1981 budget request for the Immigration and Naturalization Service proposes a reduction of 199 Border Patrol positions, 10 Detention Officers, and 68 Inspectors and clerical personnel charged with the preparation and issuance of entry documents for aliens. The sole proposed increase is 15 Inspectors for Miami, Florida. These proposed decreases come hard on the heels of a reduction of 574 positions in the FY 1980 budget which included the loss of 158 Criminal Investigators and 115 Inspectors. Despite the fact that the Congress saw fit to restore 293 Border Patrol positions and increase that again to a total of 495 positions in the FY 1980 budget, the Administration by internal action chose not to fill approximately 385 of those positions. As sole justification for

its actions, the Administration now states that the simple addition of positions and resources will not significantly improve the enforcement of the immigration laws.

At best, given the 15 year history of underfunding and staffing of the Immigration and Naturalization Service, the Administration's rationale is an untested premise. It most certainly is no justification for emasculating an agency to the point where it can no longer carry out its statutory functions. We conceded that legislation which may be enacted in the future may affect the budget priorities of the Immigration and Naturalization Service. But to not fund the agency in the interim can only further exacerbate the already bad illegal alien problem and cause further deterioration of the agency. These problems will cost far more to solve in the future than will attempts to prevent further exacerbation of the problems now.

We consider that the FY 1979 funding and staffing levels for the Immigration and Naturalization Service as enacted constitute a good starting point for considering present and future levels for the Immigration and Naturalization Service. The FY 1979 budget which was passed by the Congress and signed by the President on October 10, 1978, set the staffing level for the Immigration and Naturalization Service at 10,997 positions. Our first recommendation is that the Immigration and Naturalization Service

be restored to that level. Included in such a restoration would be the 115 Inspector, 158 Criminal Investigator, and 15 training positions cut in FY 1980. We would further recommend that the Committee concur in the House Judiciary Committee's recent action in increasing the Border Patrol by 311 positions.

Other increases are indeed warranted. In the FY 1981 Budget planning the Immigration and Naturalization Service estimated that with the addition of 100 Immigration Examiner positions and funding for 180 workyears, the waiting time for processing of applications could be reduced to acceptable limits. We see no reason why this should not be accomplished. We further note that progress has been made in computerizing the nonimmigrant control index so that the Immigration and Naturalization Service can readily determine the existence of an overstay visitor or student. We feel that the addition of 100 Investigators will be the minimum necessary to make the departure enforcement of nonimmigrant overstays a viable program. No such resources have been requested by the Administration and the current level of staffing does not permit the utilization of the nonimmigrant index as an enforcement tool.

Of note in the Administration's budget request is the total of $7,000,000 requested to decrease the lapse rate in filling Immigration and Naturalization Service positions. We view this along with their reliance on workyear statistics to mean that the OMB and Department of Justice

intend in the future to eschew some of the machinations which permitted them to consistently thwart the will of the Congress by not filling the positions which the Congress authorized. While we support this item, we would point out that the item appears remedial only and does not represent real gains beyond what the past years' appropriation actually intended.

There is little waste, if any, in the utilization of Immigration and Naturalization Service line employees. At minimum, the infusion of additional personnel resources in the Service's operational activities will help preserve the morale of those employees already present. We feel that continued personnel increases are essential if the Immigration and Naturalization Service is to survive the 1980's.

FAILURE TO RESOLVE EMPLOYEE PROBLEMS

Finally, if the Immigration and Naturalization Service is to continue to function until new laws and better resources are available, a great deal of attention must be given to the needs of the employees. Rudeness and discourtesy to the public is never excusable and our people are aware of the need to be polite, patient, and helpful. Yet those same employees are treated by their own management in a manner that no member of the public would ever tolerate. A former Regional Commissioner is said to have once remarked, "a burro works best with a burr under his blanket." This attitude seems to pervade the Immigration and Naturalization Service to the extent

that the employees feel that management not only fails to support them in the barest administrative necessities, but takes an outright antagonistic attitude towards their needs and their aspirations.

At present, the Union provides one of the major solutions to employee problems. There are several means of representing employees available to the Union. Philosophically and as a practical matter, we prefer a method called "consultations," sitting down and talking things over with management. During the past few months, we have been absolutely stymied in our efforts to do so. Every issue must now be litigated. We have over thirty issues pending decisions by outside arbitration. These we are not overly alarmed about because they do represent employee problems that will be resolved. We are concerned, however, regarding management's response to what we consider our legitimate goal, seeking resolutions to employee problems. Why, when resources are so precious and limited, has the agency chosen to spend those hard to come by funds in fighting a Union which is seeking to resolve the same problems?

Recently, we have succeeded in once again establishing a line of communication with the Acting Commissioner and we are hopeful of improving our relationship. However, we fear that despite rhetoric to the contrary, the Agency remains buried in an archaic view of labor-management relations.

The Immigration and Naturalization Service has 11 full-time labor management relations specialists. Their response has not been to assist in

or facilitate the resolution of employee problems, but rather, they are expending their efforts almost solely against the Union. As a consequence, we have over 23 Unfair Labor Practice complaints pending with the Federal Labor Relations Authority. Were these 11 individuals assigned to do adjudications instead, based on the average productivity of our employees, they could complete 79,200 visa petitions this year. Agency leadership seems to feel that the thousands and thousands of dollars expended to "defeat" the Union over issues of principle is a reasonable expenditure of public funds.

In summation, I would like to leave you with the conviction that the Immigration and Naturalization Service workforce is basically sound, and well motivated. The workforce is the sole strength of the Immigration and Naturalization Service and should be considered an asset to this nation. It exists as a firm and tested foundation upon which the reforms that this Committee hopes to effect can be built. As employees of the Immigration and Naturalization Service, we would in turn hope that the Committee would continue to solicit the special expertise that we have as you continue your deliberations.

Mr. HARPOLD. Mr. Chairman, I am Michael G. Harpold, President of the National Immigration and Naturalization Service Council of the American Federation of Government Employees. This is my fifth year testifying before this committee.

Mr. Bevans, who is the President of the National Border Patrol Council, and who will follow me, and myself have a great deal of concern with the funding and staffing of the Immigration and Naturalization Service basically because it affects the morale of INS employees.

This year we were able to secure the backing of the AFL–CIO in a statement issued by its Executive Council in Bal Harbor, Florida, February 25, 1980, and I would like to read portions of that to you. Part of their statement says:

> The AFL–CIO will support legislation that would provide adequate funding to strengthen border control inspection capabilities and anti-smuggling activities to stop illegal entry.

It further states:

> The Justice Department should do much more to strengthen and improve the Immigration and Naturalization Service. Administration and employee morale would be enhanced by improving benefits, by resolution of long-standing labor-management problems and the long overdue appointment of a Commissioner. Increased resources and technology for border enforcement and better control over the issuance and use of visitors' visas to the United States are needed.

There are three principal ways that morale of the employees is adversely affected. The first is because of the continuing uncertainty of the state of the Immigration and Nationality Act. We realize the Select Commission is proceeding in this area. But every day the burden that we as employees must endure and the uncertainty over the immigration policies of this country bear very heavily on us. Also bearing heavily on us, is the uncertainty over the Administration's backing. Principal in that backing is the backing we get in the budgetary process. This will be the third consecutive year that the Administration proposes to cut the Immigration and Naturalization Service.

As the chairman will recall, in fiscal 1979 Congress appropriated 873 new positions for the INS. Sixteen days later the Administration began administrative action which effectively cut 574 of those positions away from the INS. Last year the Congress gave the INS an additional 495 border patrol agent positions over and above what the Administration requested. It is rather difficult to figure just what has occurred with those 495 positions this year. But varying estimates range from 385 to 260 of those positions will never be filled. Now the Administration comes forth with the fiscal 1981 budget and proposes further cuts. So we would say that in the budget process, the INS has already done its share. And we would simply plead that the Congress not go along with further emasculation of the Immigration and Naturalization Service.

The Administration argues this year that the simple addition of positions and resources will not significantly improve the enforcement of the immigration laws. We would say in response that is an untested premise, because we have never been funded to the point where we could effectively administer the Immigration Act or enforce the law at our borders. But basically, and our most important

concern, is the lack of resources for us to do our job which very grievously affects the morale of the employees.

We would urge that you consider restoring the INS to the fiscal year 1979 level, which was what we considered to be a very objective view of what the INS needed to basically survive until that time that new immigration laws could be forthcoming.

In addition to that, we would urge that a hundred additional investigators be given to the Immigration Service in order that we can effectively implement the new non-immigrant control system.

Last year we were given $7 million to computerize our system so we could control the arrival and departure of non-immigrant visitors. I think we have to realize that the problem now with immigration is visitors from overseas coming in at numbers that formerly Mexicans came across the Rio Grande.

We can only make a program of enforcing departure viable, if we have an investigative staff to work the leads and enforce the departure of visitors who overstay their visas in the United States.

We also have been privy to charts designed by the Immigration and Naturalization Service that show with the simple addition of 100 additional ajudicators that the undue waiting times for ajudications and benefits under the Immigration and Nationality Act could be eliminated. We would say this is a wise investment.

By our calculation, these two hundred additional positions would cost $5.4 million, including start-up costs and an eight-month lapse time.

At the same time that we would make the pitch for these two hundred additional positions, the Administration is making a pitch for $1.5 million to increase the capability of the Service to investigate and police fraud and corruption within the INS. The House authorization committee increased this to $3 million to police alleged fraud and corruption within the ranks, which is caused by low morale. We would simply raise the point as to which is a better investment: the $3 million to police corruption after it happens or the $5.4 million so that we could be enabled to do our jobs, so that our morale would remain high, and so that fraud and corruption or even the possibility would not occur in the first place?

Basically, though, and I think we go back to our experience on this, this past year I travelled almost 75,000 miles and visited close to 100 INS work sites and the work force is basically sound.

We feel it is a good investment, the people are still working, and the people in the INS deserve the faith that can be shown by the Congress in giving us some additional resources so we can cope until such time as revisions in the Immigration and Nationality Act occur.

Mr. EARLY. Thank you for your testimony.

STATEMENT OF MR. BEVANS

We will now hear from Mr. Richard L. Bevans.

Mr. Bevans, we will put your entire statement in the record and you may summarize it.

[The statement of Mr. Bevans follows:]

NATIONAL BORDER PATROL COUNCIL
OF THE
American Federation of Government Employees
Affiliated with AFL-CIO

In Reply Please Refer To:

STATEMENT

OF

RICHARD L. BEVANS

PRESIDENT

BEFORE

THE

SUBCOMMITTEE ON STATE, JUSTICE, COMMERCE AND JUDICIARY
COMMITTEE ON APPROPRIATIONS
U.S. HOUSE OF REPRESENTATIVES

FY 1981 INS BUDGET

APRIL 1, 1980

We appreciate this opportunity to present our comments on the proposed fiscal year 1981 Budget of the Immigration and Naturalization Service for the consideration of the Subcommittee.

I&NS figures indicate that the Border Patrol alone apprehended in excess of 889,000 illegal aliens in FY '79, an increase of 27,000 over the previous year and an increase of approximately 77,000 in the past two years. We have no reason to anticipate any decrease in illegal entries during FY '81. On the contrary, the largest Mexican crop failure in the last 20 years, with more than 100,000 peasant families in the state of Oaxaca alone having lost their entire harvest, would indicate greatly increased pressure during the coming year.

Our organization is disturbed by the implication of Acting Commissioner Crosland's contention that we need not be concerned by the entire 2,000 miles of the Mexican border, since most entries occur in just a few areas. While geographic and demographic variations do tend to favor a heavier concentration of entries in certain areas, specifically El Paso, Texas and Chula Vista, California, other locations have also been inundated with greatly increased traffic. The Laredo Sector recently apprehended 1,150 illegals in a single four day period and local management estimates that they are only intercepting 1 out of 10 illegal entrants. The experience gained during Operation Shortstop, a 1977 beefing up of the Chula Vista Sector with 100 Agents from other areas, clearly proves that increased enforcement in traditionally high traffic areas causes illegal

entries to significantly increase in other locations, much like the displacement of water.

The San Clemente traffic checkpoint recently duplicated a feat first accomplished while Operation Shortstop was in full swing, with most of the extra 100 officers deployed along the immediate border. Being able to stop only a very small percentage of the vehicles passing through because of safety considerations attendant to heavy Sunday evening traffic, they apprehended 500 illegal aliens in a single 8 hour shift at a location 50 miles inland from the boundary with Mexico.

Another indication of the severity of the situation is the 8,731 illegals taken into custody last year by the 59 officers of the Miami and New Orleans Sectors, 1,700 of which were apprehended by the 5 man Tampa station alone. Yet the FY '81 budget submitted for your consideration would eliminate the city patrol and farm & ranch activities, the most productive functions in those Sectors.

We are very much aware of the pressure for a balanced budget this year and appreciate the Judiciary Committee's recommendation that 112 additional Border Patrol positions be authorized at a time when many other programs are being severely cut.

We also painfully aware of the Carter Administration's indifference to the already out of control and continually escalating illegal alien influx, so graphically demonstrated by the OMB decision to

block the filling of 350 of the 495 additional Border Patrol positions authorized and funded in FY'80 and the recommendation for still 199 fewer Border Patrolmen in FY'81 as part of a proposed I&NS budget that falls approximately $45 million short of keeping up with the annual inflation rate.

In view of the Executive Branch's expressed intention to let the situation drift along unchecked for at least 2 more years, during which time a conservatively estimated 4 million more illegals will have entered and remained in the country, the total responsibility for taking the needed positive and immediate action has been unfairly shifted to the Congress.

Despite perpetual understaffing and underfunding, the dedication and espirit de corps of I&NS employees have made possible greatly increased efficiency in the face of an ever increasing workload. However, a combination of occurences during the past 2 or 3 years has driven morale to a rock-bottom low. Probably the largest contributory factor for Border Patrolmen, which has been demonstrated by a very high turnover rate, is the continued undergrading of journeyman agents who make up the backbone of the organization.

The duties of the position have been clearly shown by both I&NS management and the union to warrant a grade of GS-11, yet they continue to be undergraded at the GS-9 level as a result of unfavorable Justice Department intervention with the Office of Personnel Management, previously known as the Civil Service Commission, at the conclusion of a five-year study completed in 1978.

While we cannot quote an exact turnover rate because of the inability or unwillingness of I&NS to provide those statistics to us, we know that the losses due to retirements, resignations and transfers to other agencies is slightly higher than the government-wide average of 10 percent. When the I&NS figure of approximately 11 percent is added to the probably nearly equal number lost to the other functions of the Immigration Service offering better grades, such as Criminal Investigator, Deportation Officer and Examiner, the total turnover probably is in the neighborhood of twenty percent per year, with a cost of approximately $30,000 each to recruit and train replacements. While the upgrade would initially cost approximately $3 million, if it reduced the turnover by even 25%--and we are confident that it would--the net result would be estimated savings to the government of $200,000 per year, plus the additional benefits of retaining the mature, experienced officers we now lose to other agencies and other functions of I&NS.

Another serious problem is the delapidated state of the I&NS vehicle fleet. The effectiveness of the Border Patrol is critically related to vehicles and the fuel to operate them, yet as recently as February of this year, line stations in the Southern and Western Regions had three and four officers riding around in one vehicle or were limited to ten miles per 8-hour shift because I&NS had run short of funds to purchase gasoline. In one Border Patrol Sector, 72% of their vehicles are over the recommended replacement mileage, many of them with over 100,000 miles. El Paso has 23 vehicles with 130,000 or more miles on them. Northern

border Border Patrol Agents are driving 1974 vehicles with over 100,000 miles that are so badly eaten up by road salt that exhaust fumes enter the passenger compartment, endangering both the officers and the aliens in custody. These examples are typical of a fleet that in many locations continually has approximately 20 percent of its vehicles disabled awaiting repairs. Yet parts are not stocked and funds are sometimes not available for commerical purchase.

The Yuma Sector, which had barely enough gasoline before, recently had its monthly allication cut by 2,000 gallons and is contemplating draining the gas from seized smuggler's vehicles to keep their fleet operating. Yet it is our understanding that $2 million of the cuts proposed by OMB to balance the budget would come from funds earmarked for the purchase of gasoline.

While we realize the importance of balancing the budget and the seeming incongruity of asking for increases at this time, cuts in funding for I&NS at this time would indeed be false economy.

Secretary of Labor Ray Marshall has stated that the unemployment rate could be reduced to less than 4 percent if illegal aliens were not present in the U. S. I&NS statistics and an as-yet unreleased Labor Department survey bear that out while debunking the totally unsupported but often articulated myth that illegal

aliens only take jobs that Americans don't want . During FY '78 I&NS apprehended at total of 225,000 employed illegals, 4,200 of whom were earning in excess of $6.50 per hour and another 14,500 of whom were paid between $4.50 and $6.50 per hour, well in excess of the minimum wage.

The Department of Labor survey found that young people, especially young people of minority groups, are willing to take low-paying jobs, with a substantial number saying that they would work at or below the minimum wage. It is this highly unemployed group that is in direct competition with the 133,000 illegals found earning between $2.50 and $4.50 per hour in FY'78. The estimated annual salary of those 152,000 found earning more than $2.50 per hour totals $852 million, most of which experience shows is sent or taken out of the country.

It is our belief that substantial additional funding for I&NS at this time, specifically earmarked for at least a 25 percent increase in the enforcement functions of Border Patrol, Investigations, Inspections and Detention and Deportation would pay dramatic dividends at a time of high unemployment and impending recession while also reducing the continuing flow of money out of the country.

Thank you,

Mr. BEVANS. Mr. Chairman, one thing I would like to bring to your attention is the fact that Border Patrol apprehensions are continually increasing, and rather than anticipating any diminishment, on the contrary, Mexico has experienced its largest crop failure in the past twenty years with substantial numbers of people, more than 100,000 peasant families in the State of Oaxaca alone having lost their entire harvest. That would give us every reason to believe there will be greatly increased pressure in the next year or two rather than a stable situation.

A good indication of how many are getting inland is shown by the fact that in a single eight-hour shift at a traffic checkpoint in San Clemente, California, approximately fifty miles inland from the border, as many as 500 were apprehended and very few of the vehicles could be stopped.

Some of the proposed cuts would take people out of the Miami and New Orleans sectors. There are 59 officers assigned to those two sectors. They apprehended 8,700 illegals last year, three-quarters of which were Mexican nationals, even though they are over in Florida and Louisiana.

The budget that has been submitted for your consideration would eliminate the city patrol and farm and ranch functions which are the most productive activities in those areas.

Another thing I would like to point out. While we realize the importance of the balanced budget and the seeming incongruity in asking for increases at this time, we feel cuts in funding for the INS would be false economy.

Secretary of Labor Ray Marshall has stated that the unemployment rate could be reduced to less than four percent if illegal aliens were not present in the United States. INS statistics and an as-yet unreleased Labor Department survey bear out that while debunking the totally unsupported but often articulated myth that illegal aliens only take jobs that Americans don't want.

During fiscal year 1978 INS apprehended a total of 225,000 employed illegals, 4,200 of whom were earning in excess of $6.50 per hour and another 14,500 of whom were paid between $4.50 and $6.50 per hour, well in excess of the minimum wage. The Department of Labor survey found that young people, especially young people of minority groups, are willing to take low-paying jobs, with a substantial number saying that they would work at or below the minimum wage. It is this highly unemployed group that is in direct competition with the 133,000 illegals found earning between $2.50 and $4.50 per hour in fiscal year 1978. The estimated annual salary of those 152,000 found earning more than $2.50 per hour totals $852 million, most of which experience shows is sent or taken out of the country.

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Thank you.

Mr. EARLY. I appreciate your statement. I have some problem with your suggestion that fraud and corruption are caused by

low employee morale. I just cannot buy that. That is an awfully discouraging thing.

I want to ask you one specific question.

Would the resources which you claim you lack be used for more people, more equipment, or for what?

Mr. HARPOLD. Bodies, people.

Mr. EARLY. That is your biggest problem?

Mr. HARPOLD. That is right.

Mr. EARLY. Thank you.

TUESDAY, APRIL 1, 1980.

IMMIGRATION AND NATURALIZATION SERVICE AND UNITED STATES TRAVEL SERVICE

WITNESSES

NORMAN PHILION, EXECUTIVE VICE PRESIDENT, AIR TRANSPORTATION ASSOCIATION OF AMERICA

JAMES GORSON, DIRECTOR OF FACILITATION, AIR TRANSPORT ASSOCIATION OF AMERICA

Mr. EARLY. The next witnesses are Mr. Philion and Mr. Gorson.

Mr. PHILION. Thank you, Mr. Chairman.

I am Normal Philion, Executive Vice President of the Air Transport Association of America, which represents virtually all of the scheduled airlines of the United States. I am accompanied by James Gorson, the Association's Director of Facilitation.

STATEMENT OF MR. PHILION

I have a prepared statement for the record. In the interests of time I would like to just briefly comment on its major points.

Mr. EARLY. Your entire statement will appear in the record at this point.

[The statement follows:]

STATEMENT OF

NORMAN J. PHILION

EXECUTIVE VICE PRESIDENT

AIR TRANSPORT ASSOCIATION OF AMERICA

TO THE

SUBCOMMITTEE ON STATE, JUSTICE, COMMERCE,

THE JUDICIARY AND RELATED AGENCIES

OF THE

COMMITTEE ON APPROPRIATIONS

HOUSE OF REPRESENTATIVES

ON

FISCAL YEAR 1981

IMMIGRATION AND NATURALIZATION SERVICE

BUDGET REQUEST

AND

UNITED STATES TRAVEL SERVICE

BUDGET REQUEST

Statement of Norman J. Philion
Executive Vice President
Air Transport Association of America
to the Subcommittee on State, Justice, Commerce,
the Judiciary and Related Agencies
1 April 1980

My name is Norman J. Philion. I am Executive Vice President of the Air Transport Association of America which represents virtually all of the scheduled airlines of the United States. With me is James R. Gorson, ATA Director of Facilitation.

We appear before the Subcommittee on behalf of our 32 member airlines who are engaged in air commerce to, from and within the United States. There are two issues under the jurisdiction of this Committee which we would like to address, namely, Fiscal Year 1981 funding for the U.S. Immigration and Naturalization Service and the United States Travel Service.

IMMIGRATION AND NATURALIZATION SERVICE

The U.S. flag air carriers are vitally interested in the services provided by Immigration at our airports. Airline operations are directly affected by Immigration policies, procedures, and inspection personnel staffing levels. We believe appropriations for the Immigration Service should be provided to meet in the most effective and efficient way possible, this nation's extensive and essential foreign commerce needs, including those relating to international air travel.

The airlines are concerned about three areas of the FY 1981 Immigration Service budget request: 1) immigration staffing at airports; 2) payment for Immigration space at airports and 3) facilitation improvements.

Immigration Staffing at Airports

Visitors to the United States receive a poor welcome when they are required to wait extended periods of time for the U.S. Immigration inspection. Their first exposure to the United States is while being processed through Immigration formalities. This can be a chilling experience if the inspection process is delayed, or if the inspectors appear cold or indifferent because they are harried. This situation occurs all too frequently at U.S. airports of entry because of inadequate Immigration staffing.

Foreign air travel to the United States on the scheduled airlines increased 18 percent last year. Increased airline competition and new international air services under the more liberal bilateral air transport agreements called for by U.S. international aviation policy have caused severe bottlenecks in processing international arrivals through Immigration formalities at major U.S. airports of entry. Last summer, it was not unusual for incoming air travelers to experience long delays when undergoing Immigration inspection at such places as Chicago, Honolulu, Los Angeles, Miami, New York and San Francisco.

A recent "letter-to-the-editor" in a Miami newspaper

illustrates one example of such a delay:

> To the Editor:
>
> My husband and I recently returned from a trip to Guatemala. We had intended to spend several days in Miami. What we found and experienced at Miami International Airport upon our return changed our minds from ever coming to your fair city by plane.
>
> It took the Immigration officials two hours and 40 minutes to process us. This included the waiting time while standing with no opportunity to rest. This is inhumane!
>
> Not only was this most unpleasant, uncomfortable, and painful (as well as a great waste of time), but also most embarrassing in front of many foreign travelers. Nobody has ever experienced anything similar at any other American or foreign airport in the world. Why should your city have this infamous distinction?
>
> Larissa Onyshkevych
> Lawrenceville, N.J.
>
> (The Miami Herald, 24 February 1980)

The number of Immigration inspectors at U.S. airports has not kept pace with the growth of international air travel. In Miami, for example, the number of international passengers is more than doubling each 5 years. The increase is projected to be 40 percent this year. But there has been no commensurate increase in the number of Immigration inspectors to process this traffic. While 15 additional Immigration inspectors have been earmarked for the new Miami Airport facility scheduled to open in mid-April, this will only start to "catch-up" with inspector staff shortages of the last five years. Even the additional 15 Immigration inspectors pledged by the

Acting Commissioner of Immigration for the new Miami Airport facility may now be in jeopardy as a result of the freeze on Government employment announced by the President on 14 March 1980.

In a telegram dated 6 March 1980, from the Greater Miami Chamber of Commerce, a copy of which is attached to this statement, it is pointed out that a freeze on inspector staffing at Miami Airport could cause the time for processing an international passenger to "continue to be one to three hours." The plain fact is that Immigration budget requests for inspection personnel have been, and still are, unrealistic and fail to recognize the increase in international air traffic. In addition to the 15 new inspectors needed when the new facility opens this month, a minimum of 30 or more Immigration inspectors will be needed during FY 1981 at the Miami Airport.

Also attached to our statement is a list of U.S. and preclearance airports under each of the four Immigration regions showing additional inspectors needed for FY 1981. These needs represent our judgment of minimum staffing requirements to process expected passenger arrivals, and they were determined on the basis of time and motion experience with input from technical experts representing airlines, airports, and government agencies.

With additional staffing, Immigration can provide expedient, effective service to the international traveling public.

We believe it is the Government's responsibility to provide sufficient staffing to conduct required Immigration inspection without penalizing the traveling public or the airlines which provide government-authorized public service.

The severity of the staffing problem recently was highlighted when the Eastern region of the Immigration Service ran short of funds in February and threatened to reduce staffing at preclearance and U.S. airports in the region by 25 percent on all Sundays and Holidays until further notice. Although this threat was averted at the last minute by Congressional intervention, we understand that the other three Immigration regions face similar critical problems, and that service may be curtailed at any time in these regions.

Payment for Immigration Space at Airports

There has been considerable concern over the years on the part of the Immigration Service, airport operators and the airlines about the arrangements for providing Immigration space at U.S. airports of entry and the several preclearance airports in Canada, Bermuda and the Bahamas.

Immigration today must negotiate with airport operators to obtain whatever space can be made available free of charge to the Federal Government for processing arriving international air travelers. As a consequence, the facilities provided Immigration are often inadequate. The Immigration Service is authorized under Public Law 87-255 to seek necessary airport

facility funding, but resources have never been appropriated for this purpose. The time has come for the United States to operate its Immigration Service on a realistic financial basis. Funds must be appropriated for this purpose.

Facilitation Improvements

The Immigration Service, in cooperation with U.S. Customs, designed and implemented an experimental inspection procedure at the Philadelphia Airport called "one-stop". Arriving air travelers at Philadelphia now proceed immediately to the Customs counters where a "one-stop" inspection is performed, either by an Immigration, or Customs official. That official performs the primary inspection formalities for his agency and the sister agencies, whether Customs, Immigration, or Agriculture.

The one-stop procedure is also in operation at the new U.S. preclearance station at the Edmonton, Alberta Airport. The procedure accelerates the flow of international arriving air travelers through U.S. formalities while making the most economic and efficient utilization of limited manpower resources. The concept should be extended as a cost-reduction and facilitation measure to Los Angeles, Tampa, and Houston as soon as possible, and to other airports when needed facilities are available.

Another facilitation measure which we urge this Committee to support is the proposed extension of U.S. Immigration preclearance to Frankfurt, Germany for an experimental six-month test. Preclearance results in reduced passenger congestion at

U.S. ports of entry and requires less total staffing abroad than in the U.S. A side benefit of preclearance is that the illegal, or otherwise inadmissible, alien is intercepted before boarding his flight overseas and not after deplaning in the U.S.

The cost required to staff preclearance at Frankfurt, Germany for the six-month test would be minimal, and we urge this Committee's endorsement of the test proposal.

UNITED STATES TRAVEL SERVICE

We would also like to briefly address the FY 1981 budget proposal relating to the Commerce Department's U.S. Travel Service (USTS). The budget proposal reflects requests for $8.5 million and 75 positions for the International Trade Administration (ITA) which, under the proposal, would assume responsibility for tourism development programs now carried out by USTS. We would suggest instead that consideration be given to the proposed $8 million USTS program contained in S.2248 now being considered by the Senate Commerce Committee.

The transfer of USTS responsibilities, in our opinion, would significantly downgrade the national tourism program contrary to the International Travel Act of 1961. The intentions underlying the budget proposals appear to involve a contraction of overseas promotional endeavors, with a substantial shift of personnel allocations from overseas offices to Washington.

We understand that a greater part of the overall budget is intended to be earmarked for administrative activities in Washington, instead of being used for essential overseas promotional efforts where it would produce more meaningful results. Furthermore, the plan also includes the possible use of commercial attachés in a part-time supplementary tourism promotional role as a substitute for experienced, professional tourism promotion experts to conduct the overseas advancement programs in the highly competitive international travel market. To preclude this obvious deterioration of United States tourism activities abroad, we urge the members of the Committee to continue funding for USTS as separate entity in FY 1981.

The Congress is now moving toward the establishment of a clear national tourism policy as set forth in S.1097, which passed the Senate unanimously last year. In the interim, we believe that the stopgap measure extending the USTS program for one year at the FY 1980 $8 million funding level, is a more appropriate and responsible approach until the national policy is implemented. A shifting of the USTS to ITA would seriously diminish the overseas promotion of tourism at a time when our nation's economy could benefit so greatly from foreign tourist earnings. We believe that this move could serve no useful purpose and would prove to be both premature and costly.

We respectfully urge this Committee to consider the merits of S.2248, and accordingly appropriate $8 million for the USTS in FY 1981.

CONCLUSION

In conclusion, Mr. Chairman, Immigration inspector staffing considerations need to be consistent with the responsibilities and obligations of the Immigration Service under our immigration laws. They also must be consistent with our national policies to expand international airline service and to increase visitor travel to the United States. If budget constraints impose Immigration inspector staff reductions, then the Immigration inspection process itself must be reduced on a comparable basis. If the national interest precludes large-scale changes in the process, then adequate staff must be made available. Unless one or the other choice is made, serious public inconvenience will result, our airports will become even more congested, and the international air transport system will become less efficient and more expensive.

In the case of the United States Travel Service, extension of USTS funding as proposed in S.2248 will allow the orderly continuation of overseas promotion programs in direct contrast to the disruptive, more expensive, and less productive Administration proposal which would waste resources without regard for the new national tourism policy proposals currently being finalized by the Congress.

We hope, Mr. Chairman, that adequate funding for Immigration Service staffing at the airports on the one hand and funding to allow the USTS to continue as a separate agency on the other, will receive the support of this Committee.

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PMS JAMES P GORSON DIRECTOR-FACILITATION CARE AIR TRANSPORT ASSN OF AMERICA RPT DLY YGM DLR
1709 NEW YORK AVE NORTHWEST
WASHINGTON DC 20006
DEAR JIM,
MIAMI INTERNATIONAL AIRPORT HAS SUFFERED EXTENSIVE DELAYS IN PROCESSING INTERNATIONAL ARRIVING PASSENGERS. ON JANUARY 8, 1980, SENATOR LAWTON CHILES CHAIRED A MEETING WITH REPRESENTATIVES FROM FEDERAL, STATE, COUNTY AND INDUSTRY AGENCIES AFFECTING THE PROCESSING OF THE PASSENGERS. AN AGREEMENT WAS REACHED AT THAT MEETING TO HOLD MONTHLY MEETINGS UNTIL THE PROBLEM WAS SOLVED. UNITED STATES CUSTOMS PLEDGED 82 ADDITIONAL INSPECTOR POSITIONS AND UNITED STATES IMMIGRATION PLEDGED 15 NEW POSITIONS TO BE IN PLACE WHEN THE NEW

MIAMI INTERNATIONAL AIRPORT CUSTOMS FACILITY GOES INTO OPERATION IN MID-APRIL. CUSTOMS AND IMMIGRATION SERVICES HAVE SELECTED PEOPLE TO FILL THESE NEW POSITIONS AND ARE IN THE PROCESS OF CHECKING AND TRAINING. SENATOR CHILES AND THOSE AGENCY REPRESENTATIVES ARE WORKING DILIGENTLY AND COOPERATIVELY TO SOLVE THIS SERIOUS PROBLEM.

A THREATENED FREEZE ON EMPLOYMENT BY OMB WILL SEVERELY CRIPPLE THIS EFFORT. IF SUCH A FREEZE IS IMPOSED, AN EXCEPTION TO THESE NEW POSITIONS MUST-REPEAT, MUST-BE ALLOWED IN MIAMI, WITHOUT AN EXCEPTION, THE TIME FOR PROCESSING AN INTERNATIONAL PASSENGER COULD CONTINUE TO BE ONE TO THREE HOURS.

AS HAS BEEN POINTED OUT MANY TIMES, MIAMI'S RATIO OF INTERNATIONAL PASSENGERS PER CUSTOMS INSPECTOR IS WOEFULLY SHORT OF THE RATIOS OF

KENNEDY AND LOS ANGELES AIRPORTS. EVEN WITH THE 82 STAFF INCREASE, THE PROJECTED 1980 40 PERCENT INCREASE IN INTERNATIONAL PASSENGERS WILL MAKE THIS AN ONGOING PROBLEM. ADDITIONAL BUDGET ALLOCATIONS FOR AN ADDITIONAL 69 POSITIONS, OVER AND ABOVE THE 82, ARE NEEDED TO MAINTAIN ANY SEMBLANCE OF GOOD SERVICE.

YOUR HELP IN POINTING OUT THE NEED FOR AN EXCEPTION TO ANY EMPLOYMENT FREEZE AND THE NEED FOR 69 ADDITIONAL CUSTOMS INSPECTOR POSITIONS WILL BE GREATLY APPRECIATED. SINCERELY,

FRANK CALLAHAN, CHAIRMAN, SPECIAL COMMITTEE ON INTERNATIONAL PASSENGER SERVICES
GREATER MIAMI CHAMBER OF COMMERCE
1200 BISCAYNE BLVD
MIAMI FL 33132
NNNN

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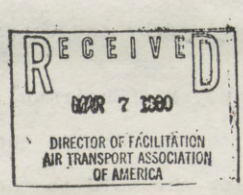
ATA WSH



ADDITIONAL IMMIGRATION STAFFING REQUIREMENTS

FISCAL YEAR 1981

U.S. AIRPORTS-OF-ENTRY AND PRECLEARANCE AIRPORTS

Northern Region	Additional Inspectors
Anchorage	4
Chicago	6
Cincinnati	1
Cleveland	2
Calgary, Canada	3
Denver	2
Detroit	2
Duluth	1
Edmonton, Canada	2
Great Falls, Montana	1
Kansas City	2
Milwaukee	1
Omaha	1
Portland, Oregon	1
St. Louis	2
Salt Lake City	1
St. Paul	3
Seattle	2
Spokane	1
Vancouver, Canada	4
Winnipeg, Canada	2
Indianapolis	2
Subtotal	46
Western Region	
San Francisco	10
Honolulu	42
Agana, Guam	4
Los Angeles	31
Las Vegas	1
Tucson	1
Phoenix	0
Subtotal	89
Eastern Region	
Maguire AFB	2
JFK (New York)	23
Bangor	1
Boston	8
Baltimore	1
Philadelphia	7
San Juan, PR	16
Charlotte Amalie, V.I.	5
Christensted, V.I.	5
Dulles (Washington, D.C.)	5

Eastern Region (continued)	Additional Inspectors
Andrews AFB	0
Toronto, Canada	16
Montreal, Canada	18
Hamilton, Bermuda	3
Subtotal	120

Southern Region	
Atlanta	9
Albuquerque	2
Miami	30
Ft. Lauderdale	4
Tampa	1
Orlando	1
West Palm Beach	1
Memphis	0
Nashville	0
San Antonio	3
Houston	20
Dallas-Ft. Worth	30
Harlingen	1
Freeport, Bahamas	4
Nassau, Bahamas	3
El Paso	2
Key West	1
New Orleans	8
Subtotal	120

TOTAL: 375

Mr. PHILION. Mr. Chairman, we would like to raise two points that are involved in matters pending before this committee. The first is the Immigration Service budget and the second is the funding for the programs of the United States Travel Service.

Mr. Chairman, citizens arriving in the United States today and visitors from abroad are experiencing significant delays at our international airports. Delays are going as high as two to three hours for a group of arriving passengers. This has been going on for some time, as I am sure you are aware from previous considerations before the subcommittee.

The problem is inadequate staffing. We are operating under two national policies. One is to increase international air competition and to have more flights carrying more passengers from more points abroad to more cities in the United States. The second policy is to promote travel to the United States by citizens of other countries, because of the important social and economic benefits involved. Foreign visitors last year contributed over $10 million to our U.S. economy in terms of travel spending here. So we have two national policies. Yet in conflict with those policies, we treat our returning citizens as well as visitors very shabbily at these airports because of inadequate staffing.

The Immigration Service requested for fiscal year 1981, 106 additional inspectors for the airports of our country. The amount that was forwarded to you from the Administration was 15 additional inspectors. We believe there is a need for many more than the 106 additional inspectors requested originally by the Immigration Service. But the authorizing committee of the House has authorized that number of additional inspectors and we would simply urge you to provide funding, either out of increased appropriations or through some directive which would direct some reallocation of resources within the Immigration Service to provide at least that number of additional inspectors.

Finally, with respect to the Immigration budget, Mr. Chairman, we have some problems with the balance of this year. Because of the serious delays and congestion at some of our international airports, there have been significant investments made to provide additional facilities by private parties, airport operators and airlines. Two examples are Miami and Los Angeles. A new facility is opening up in mid-April in Miami to accommodate this increase in international travelers. Fifteen additional Immigration inspectors were committed for that facility. We have some real question as to whether or not they will be provided today in view of the federal employment freeze. Secondly, we have a new facility badly needed at Los Angeles because of the very serious congestion problems which will be opening up at the end of this month, and 17 additional Immigration inspectors are required to man that facility; otherwise it will be totally wasted. There is a tremendous investment in that facility. Here again, we have a question as to whether or not those inspectors will be available.

We would urge here that you consider in your report giving some kind of guidance to the Immigration Service as to the need to accommodate these international travelers and to administer our immigration laws at aiports of entry.

Finally, with respect to the programs of the United States Travel Service, the Department of Commerce budget proposal for fiscal year 1981 requests $8.5 million for the continuation of the programs. Unfortunately, however, the Department's budget proposal incorporates a whole series of rather significant organizational and program changes which we believe and others believe are inconsistent with and in direct conflict with congressional policy.

The Senate has passed an entirely new international tourism and travel policy for the United States. The House Committee is considering it. We understand a bill will be reported out within the next thirty days dealing with that issue.

We think it would be wrong for the Administration or the Department of Commerce through the budget process to rearrange the whole concept of government programs in this connection while Congress is still considering an entirely new program.

In short, we would urge you to continue the current program at a lesser amount, as a matter of fact, than what is being requested by the Administration, at least for fiscal year 1981.

Thank you very much.

Mr. EARLY. Mr. Gorson, do you have a statement?

Mr. GORSON. I think it has been covered adequately.

In connection with Miami and Los Angeles, as reflected in the statement, we would urge the committee's support for pre-clearance at Frankfurt, Germany, which would mean the stationing of U.S. Immigration inspectors there to take off some of the congestion at our gateway cities throughout the country.

Mr. EARLY. You wish to continue the Travel Service at a reduced level. Can you give us a figure?

Mr. PHILION. The current program is funded at the level of $8 million. The Administration's proposal would increase that to $8.5 million. More importantly, it would shuffle bodies around the globe, and bring them back to Washington, where we don't believe they are necessary. At a minimum, we would urge a continuation of the existing program for another year until Congress finalizes the new policy.

Mr. EARLY. All right. Thank you very much for your statement. We appreciate it very much.

TUESDAY, APRIL 1, 1980.

INTERNATIONAL TRADE ADMINISTRATION

WITNESS

ROBERT BECHTEL, EXECUTIVE VICE PRESIDENT, THE DUN & BRADSTREET CORP.

Mr. EARLY. Our next witness is Mr. Robert Bechtel. We will make your statement a part of the record at this point.

[Mr. Bechtel's prepared statement follows:]

STATEMENT BY

ROBERT BECHTEL
EXECUTIVE VICE PRESIDENT
THE DUN & BRADSTREET CORPORATION

TO THE

HOUSE APPROPRIATIONS SUBCOMMITTEE
ON
STATE, JUSTICE, COMMERCE, AND THE JUDICIARY

April 1, 1980

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My name is Robert Bechtel. I am an Executive Vice President of The Dun & Bradstreet Corporation. Dun & Bradstreet is the world's leading company engaged exclusively in developing and disseminating business information. I am responsible for the operations of our business information subsidiaries, both in the United States and throughout the world. Prior to my present position, I was President of Dun & Bradstreet International, Ltd., the subsidiary responsible for our foreign operations. We have operated overseas since 1857, and have 6,000 employees in 150 cities abroad.

I am here to discuss a Department of Commerce project, the Worldwide Information and Trade System, called WITS. This program is intended to enhance U.S. exports by providing helpful information to U.S. companies interested in markets abroad, and also by providing more information about U.S. products and companies to potential customers overseas.

For many decades, a fundamental function of D&B's worldwide business information services has been to foster international trade. For example, we now supply export-related information services to more than 9,000 U.S. businesses; we have information readily available on more than 5,000,000 foreign businesses in more than 100 countries. We understand and share the goal of providing better information to increase American exports.

Our concern is that the Department of Commerce, in developing WITS, is pursuing a course which will be exceptionally and unnecessarily costly to taxpayers while failing at the same time to provide the best possible service to exporters. Moreover, the government will be competing

unfairly with many private companies. We would like to suggest an alternative course which we believe, based on our extensive experience, will provide better service at far lower cost.

One of the basic deficiencies in the Department's plan for WITS is that it tends to reinvent the wheel. That is, the plan calls for the Department to build and maintain, at taxpayer expense, government owned and operated data files although substantially similar information -- indeed, much more -- already is available more economically in the private sector. Obviously, gathering data that already exists is costly and wasteful.

Your committee recognized this problem during Congressional consideration of the Department's budget last year. In approving a reduced appropriation for WITS, the Senate-House conference committee could hardly have given a clearer mandate. The committee stated in its report:

> "The conferees are agreed that the Industry and Trade Administration will fully involve the private information industry in the development of WITS. The conferees also expect the Industry and Trade Administration to ensure that private sector efforts are enhanced and that ITA does not duplicate or compete with the private sector." (Emphasis added.)

I am testifying today because the Department has not responded to this Congressional directive with regard to the information industry. Although the Department has planned to contract with the private sector to provide for storage and distribution of information contained in the

WITS system, it continues to insist upon creating government data banks that patently will do what Congress told the Department not to do -- that is, substantially duplicate and compete with similar files in the private sector. While we appreciate that the Department has been quite willing to meet with us and with the Information Industry Association to discuss the matter, we can detect no firm, substantial change in the Department's original design for WITS, despite the Congressional directive.

Let me explain further. Under the Department's proposal, the Department would either contract with a private vendor to supply certain specified items of information about foreign companies in each relevant foreign country, or undertake to gather this information itself. The data from the vendor, of course, would be limited to the Department's rigid specifications. This information then would be incorporated into the Department's WITS data system. The Department would draw upon this government-owned and controlled information base to respond to inquiries from exporters and potential exporters.

The Department contends that it is following the Congressional mandate because it may contract with a private vendor for the information in some countries. But the Department would then use the information it purchased to compete with the vendor who supplied it, or other vendors who are already serving U.S. exporters.

The Department has acknowledged, in a letter to the Information Industry Association, that private companies with large existing information services to U.S. exporters may suffer substantial losses in revenue as their customers obtain information from WITS rather than

through the private sector. The Department has suggested a strange, catch-22 solution to this problem. It has indicated that companies could include their anticipated losses in the price they bid for the contract to supply data to WITS. The trouble, of course, is that the most qualified companies with the most accurate, up-to-date information for WITS -- the companies with the most existing export-related business -- would have to add the most substantial sums to their bid price to protect against the projected loss of revenue. This would make it virtually impossible for them to bid successfully against foreign companies or others which have not provided information to U.S. exporters, and thus would have no pertinent existing revenues to recover in their bid price.

Moreover, all companies that are unsuccessful in their bids, or companies that choose not to bid, obviously would have no opportunity whatever to offset their losses to taxpayer-supported competition from WITS.

To compound the problem, the Department has made clear that foreign companies may receive the awards to supply information to WITS. Thus the U.S. Government would become importers in a program designed to assist exporters. These same foreign firms, strengthened by the awards from the Department, can then better compete with American firms in foreign markets, further reducing the flow of taxable dividends to the United States.

A brief review of the situation in a single country is illustrative and informative. In a pilot project in France, the Department already

has contracted to pay a French firm to supply 28 items of data, the items specified by the Department for the WITS program, on 4,600 French companies. Yet Dun and Bradstreet, established in France in 1882, already delivers annually 128,000 reports on 90,000 French companies. We have paper information files readily available on 238,000 French businesses. We have a separate, special computerized file on 30,000 French companies, from which we can extract highly selective information.

The Department has emphasized that the D&B files do not contain eight of the 28 items the Department has specified for WITS. Our experience is that these eight items are seldom required by customers and the cost of keeping them available and up to date at all times exceeds any benefit. It is far more economical to obtain these items on a when-needed basis, which we can readily do.

The net result in this example is that the U.S. government is paying a French firm to supply data to be placed in a government computer file to be used to compete with an American firm which already has vast quantities of similar information on many more companies.

Altogether, the WITS pilot program has a goal of updating the Department's information on 24,500 companies in nine countries. D&B already has a computerized file on 118,600 companies in these same nine countries, all of the data continually updated.

The Department also has contended that it will not be competing with private business because WITS will serve medium-sized and small businesses which are too small to utilize existing private services.

Whether WITS will attract significant numbers of new exporters is, of course, highly speculative, and our experience with thousands of exporters leads us to be doubtful. The Department itself has no estimate of the additional exports to be expected from WITS, and thus has no cost-benefit analysis. At any rate, the fact is that 68 percent of D&B's U.S. customers for international information services are medium-sized to small businesses, the targets for WITS.

The Department's concept for WITS is, indeed, a strange approach to complying with the Committee's command "to ensure that private sector efforts are enhanced." Perhaps stranger still, the Department has contended that the mere fact that funds were appropriated last year for WITS signifies that Congress has approved and authenticated the Department's plan for WITS. This rationale overlooks the fact that in approving the appropriation, Congress called for a change in course which is not yet evident.

Apart from the issue of duplication and government competition with private business, we are convinced that the plan for WITS is unnecessarily expensive. The Department is planning to file in its computerized, on-line system more information than many exporters are likely to need. Certainly most potential exporters will not need all of this data on an instantly retrievable basis. The more detailed the information, the more costly it is to gather, store and keep up to date. If this information is going to be accessed only a small percentage of the time, then it is unlikely that it pays to have it in the system. This is especially true if the need for the data is not time critical.

A potential exporter interested in identifying foreign prospects is really not interested initially in bank and trade references. He is involved in a marketing effort, and he needs the computer first to suggest a prospect list and then to narrow it down. Once a relationship starts to develop, there is time to gather the less-often-used, more detailed data. But in WITS all these elements are given the same priority. They are all treated equally, gathered and stored at the same time, and available on-line. We think this is costly and wasteful.

The fact that WITS will use tax-paid funds to substantially duplicate and compete with private services might be less objectionable if the end result were to provide the best feasible service to American exporters, but this is not the case. I would like to turn now to an alternative design for WITS, which we have suggested to the Department, which would provide more and better information to exporters and would enhance, not undermine, the private sector.

Under this plan, WITS would simply link its computer system with, or otherwise arrange to use, the existing computerized files of private companies which have stores of information that could be useful to exporters. The government would place its own non-duplicative information directly in the WITS computers, as would any smaller companies with relevant information not stored in computer systems.

An exporter or potential exporter would contact the Department to outline his interests and needs. Trained Commerce officers would provide him expert advice on the types of information available from different sources and help the user select the information that would be most

useful. The Commerce officer, employing a remote terminal, could then order the desired information from the private sector computer files and/or WITS' own data banks.

The Department, of course, would play an important role in informing the business community about the system and encouraging its use, as part of the Department's export expansion program. The Department also would make an invaluable contribution by maintaining and operating the system for delivery of information to users.

This plan would maintain a truly competitive marketplace, where the WITS user could choose information vendors on the basis of quality and cost. The plan would provide for easy entry of new vendors and/or new information services. Each vendor would continue to bear the expense of creating his own file and maintaining it up to date. This would provide a substantial saving to taxpayers. We are well aware of the costs of creating and maintaining the kinds of files needed for WITS, and they are not small. From our experience, the true annual cost of gathering and keeping up to date the amount of data is likely to exceed the appropriation requested for WITS. And under our proposal, all information suppliers would have a fair opportunity to compete to provide the best service at the lowest cost.

WITS, then, would have instantly available at nominal cost a massive amount of information to serve the needs of exporters -- far more information about more companies at far less cost to the Department than the contract system planned by the Department. Since the WITS

system we propose would generate inquiries to the private sector, companies would link their data banks to the WITS system at very little or no expense to the Department. While users would pay a fee for inquiries to the private sector data banks, the fee would be much less than they would pay for a similar inquiry now. The private firms could charge less because Commerce would assume most of the responsibility for marketing the system and all of the expense for delivery of the information to the individual user.

We are convinced the fees for inquiry into the private data banks would in no way be so large as to deter use, even for small business. In the unlikely event that fees should become a problem, it would seem entirely appropriate for WITS to subsidize the fees paid by users, as a sound investment toward the public policy goal of export expansion.

The system also would offer exporters a far more flexible range of information. Under the Department's plan, WITS would offer only specified bits of information. Under the system we suggest, Commerce officers would have literally at their fingertips virtually all the relevant information within the information banks of government and business. The Department's officers could perform an enormously valuable service in helping WITS clients tailor inquiries to their specific needs, paying for no more than they need.

For example, an initial inquiry might order limited information about a relatively large number of companies; from this base, the user could seek more detailed information on a few of the more promising companies. If the user is primarily interested in financial information

about a foreign company, the inquiry can be limited to that; if the exporter is interested primarily in product information, the inquiry might go to a different source specializing in that area. There would be no need for fixed, rigid forms that might cover more information than needed in one field but not enough in another field. Modern information handling technologies could easily be programmed to perform the highly flexible service we have in mind.

We believe the information already available from the combined resources of the private sector and government would answer virtually all user needs. If, as the Department contends, experience would show gaps in existing data banks, that would indicate a market the private sector probably would be anxious to develop; or the government could develop any needed additional information through its own staff or by contract, at a fraction of the cost of the current Department plan.

The alternative system we suggest obviously fulfills the Congressional directive: it entails a cooperative program enhancing the services provided by both government and business, avoiding duplication or competition between the two sectors. Even more important, it would provide the maximum information for export expansion in a uniquely flexible format, at far less cost to taxpayers.

* * * * * * *

We believe it would be a serious mistake to permit WITS to continue on its present course. Before the first operational stage of WITS is put in place, there is time to redirect the program to make it consistent with the intent of Congress as expressed in the Conference

Committee report last year. Accordingly, we respectfully urge the Committee, while continuing funds for planning, to defer funding for the first operational phase of WITS until the Department has redesigned the program to make efficient use of existing and future private data bases, and not duplicate or compete with them. By serving such notice now, we believe the Committee could assure that WITS will be developed in ways that reach its full potential for efficient, effective service in promoting American exports.

Mr. BECHTEL. Thank you, Mr. Chairman. I am Robert Bechtel, Executive Vice President of the Dun & Bradstreet Corporation. I am responsible for our business information subsidiaries both here and abroad. Before that, I was President of Dun & Bradstreet International, the subsidiary responsible for foreign operations where we have operated overseas since 1857 and now have 6,000 employees in 150 cities abroad. I am here to discuss the Department of Commerce WITS program, which is intended to enhance U.S. exports by providing helpful information to U.S. companies interested in markets abroad and also by providing more information about U.S. products and companies to potential customers overseas. Our concern is that the Department of Commerce in developing WITS is pursuing a course which will be exceptionally and unnecessarily costly to the taxpayers while failing at the same time to provide the best possible service. Moreover, the government will be competing unfairly with many private companies.

Your committee of course recognized this problem last year and in its report emphasized that the program should be developed to insure that private sector efforts are enhanced and that ITA does not duplicate or compete with the private sector. The present design of WITS does not enhance private sector efforts and it does to a significant degree duplicate and compete with the private sector.

As an ironic example, I would like to give you the situation in a single country as being illustrative. In a pilot program in France, the Department has already contracted to pay a French firm to supply items of data specified by the Department in the WITS program on 4600 French companies. Yet Dun & Bradstreet, established in 1882 in France, already delivers annually 128,000 reports on 90,000 French companies. The net result of this example is the U.S. Government is paying a French firm to supply data to be placed in a government computer file to be used to compete with an American firm which already has vast quantities of similar data.

The fact that WITS will use tax-paid funds to substantially duplicate and compete with private services might be less objectionable if the end result were to provide the best feasible service. But we do not think this is the case.

We have suggested an alternative design for WITS to the Department which we feel would provide more and better information to exporters and would enhance and not undermine the private sector. Under this plan, WITS would simply link its computer system with or otherwise arrange to use the existing computerized files of private companies which have stores of information. The government would place its own non-duplicative information directly on its own computers as would any companies with relevant information not stored in computer systems. The Commerce officer employing a remote terminal such as now planned could then order the desired information from a private sector computer file and/or WITS own data banks.

The Department, of course, would play an important role in informing the business community about the system and encouraging its use as part of the Department's export expansion program. The Department also would make an invaluable contribution by

maintaining and operating the system for delivery. This plan would maintain a truly competitive marketplace. This plan would provide a substantial saving to taxpayers.

We are all well aware of the costs of creating and maintaining the kinds of files needed for WITS, and they are not small. From our own experience, the true annual cost of gathering and keeping up to date the amount of data envisioned by WITS is likely to exceed the appropriation requested. And this says nothing for the system.

Under our proposal, all information suppliers would have a fair opportunity to compete and provide the best service at the lowest cost. The alternative suggested system obviously fulfills the congressional directive. It entails a cooperative program enhancing the services provided by both government and business, avoiding duplication or competition between the two sectors. Even more important, it will provide the maximum information for export expansion in a uniquely flexible format at far less cost.

We believe it would be a serious mistake to permit WITS to continue on its present course. Before the first operational stage of WITS is put in place, there is time to redirect the program to make it consistent with the intent of Congress as expressed in the conference report last year. Accordingly, we respectfully urge the committee to defer funding for the first operational phase of WITS until the Department has redesigned the program to make efficient use of existing and future private data bases and not duplicate or compete with them. By serving such notice now, we believe the committee could assure that WITS will be developed in ways to reach its full potential for efficient and effective service in promoting American exports.

Thank you for letting us present our views.

Mr. EARLY. Mr. Bechtel, last year the House included $1 million for the WITS program. The Senate increased that amount to $5 million, and we compromised with $4 million. WITS is supposed to be a three-year program for $20 million. How do we protect the little businessman that wants to get into exporting? It's hard to imagine that a businessman doing $50 to $60 million of business is considered a "little businessman."

Mr. BECHTEL. Technically by definition it is, of course. It may be amazing to the committee to know that 68 percent of the customers that we have for export services are small business by that definition.

Mr. EARLY. Sixty-eight percent?

Mr. BECHTEL. Yes. Essentially our base is rather broad. This is not to say that WITS should not be done because we are there. But the truth is that an attempt has been made for many years to get to the small businessman.

Mr. EARLY. Would these small businesses still get as much information out of companies like yours, as they would get out of WITS once it is operating at the $20 million level?

Mr. BECHTEL. Yes, because where the total gross file is deficient, either there is a market someone wants to serve or WITS can provide that information itself.

Mr. EARLY. What do you mean by deferring funds? do you want the WITS program to get some funding, but spread it out over a longer period than three years, or do you want to just negate the whole program?

Mr. BECHTEL. Our suggestion in further detail is to perhaps give them six months worth of funding with the provision that they come back with a plan that is agreeable to everyone.

Mr. EARLY. Thank you. I look forward to seeing your extended testimony.

TUESDAY, APRIL 1, 1980.

INTERNATIONAL COMMUNICATION AGENCY

WITNESS

FATHER WILLIAM GEORGE, GEORGETOWN UNIVERSITY

Mr. EARLY. Next we are going to hear from Father William George of Georgetown University.

Father GEORGE. Mr. Early, I will be very brief and will even summarize this statement. Hopefully, it will be in the record.

[Father George's prepared statement follows; additional exhibits submitted with the statement are on file with the Committee:]

GEORGETOWN UNIVERSITY,
Washington, D.C., April 1, 1980.

HOUSE APPROPRIATIONS COMMITTEE,
Subcommittee on State-Justice

DEAR MR. CHAIRMAN AND MEMBERS OF THIS COMMITTEE: We are Fathers T. Byron Collins, S. J. and William L. George, S.J., Special Assistants to the President of Georgetown University. With us is Father Harold Bradley, S.J., Director of International Programs and Ms. Gretchen Carroll, Director of the Study Abroad Center for Georgetown University.

We are very glad and grateful for the opportunity to testify before this Committee. We would like to ask that our testimony be submitted for the record.

Mr. Chairman and members of this committee, The Georgetown University International Student Exchange Program (ISEP) pilot is under way. The exchange program involves participants from both graduate and undergraduate programs. An ISEP participant with his or her own college or university provides for all of the individuals' educational, living and counseling costs.The ISEP participating institution then arranges for this individual to exchange places with a student abroad in such a way that each participant gets full academic credit toward any degree for which a participant enrolled in the ISEP program might be working. The program objective is to provide ISEP participants the opportunity to study abroad without spending the United States monies abroad for students educational and living expenses.

We are now entering the third year of a five year pilot program, as we presented the International Student Exchange Program proposal in 1978. (Exhibit) We established the program in its first year with a grant of $100,000 with the exchange of twenty-six students and with the participation of two institutions of higher education in the United States and ten institutions abroad. This present year, we are operating under a grant of $200,000 for the exchange of 200 students and with the participation of ten institutions from the United States and twenty institutions abroad.

For our third year of operation we are requesting a grant of $550,000 for the exchange of 600 students, three hundred from the United States and three hundred from abroad with the participation of 20 institutions selected from eighty within the United States and with the participation of 40 institutions selected from 130 institutions abroad. (Exhibit) Together with contacting more than 2000 colleges and universities throughout the United States and several hundred schools, arranging for the student exchange involves analyzing the curricula, faculties, facilities and living

arrangements with each domestic and foreign institution, and then matching each of these elements in a manner which is attractive to the program participants. We would like to point out that the unit cost per student has fallen each year (from $4,000/student in year one, to $1,000/student in year two, to $900/student in year three).

The Department of State's budget justification for Education and Cultural Affairs includes $215,000 for the ISEP-University Pilot Project in fiscal year 1981, but this budget estimate was prepared in November of 1979, before we were able to provide the agency with our program for the next academic year. We could not submit our plans for the third year of the ISEP program because we did not receive our second year grant award until February 22, 1980, and were thus unable to make commitments to participating institutions. Though we had requested the grant on July 11, 1979, the process of clarifying the grant request took some time. If the Committee approves our request for $550,000, we would like to ask for the Committe's assistance in obtaining the grant for next year.

The pilot program requires one more year of funding, after which the costs of student exchange would be institutionalized, meaning that each institution would be responsible for the unit costs per student. ICA may wish to expand the ISEP program on a large scale based on the model of the pilot program. We would like to point out that this program is complimentary to the Fulbright program. The attached exhibit shows cost figures for the Fulbright program.

We would also like to request that the Committee support our request for a waiver from the Civil Aeronautics Board's regulation which would permit ISEP participants to occupy stand-by seats at no charge for those countries who offer reciprocal free transportation arrangements. This would allow students from working class and middle income families to participate in much larger numbers.

Father GEORGE. Father Collins sends his regards. He is making his Easter retreat. I am certain that one of the persons he is praying for or maybe with is Mr. Slack. He was a very honorable man. We will miss him.

Mr. EARLY. Mr. Slack was the finest person in Congress. He was the closest thing we ever had to a perfect person, Father. He was outstanding in all respects. He was probably too kind to Georgetown.

Father GEORGE. He drove a pretty good bargain. As I say, he was a honorable man.

Mr. HIGHTOWER. He can get forgiveness for that, can't he?

Father GEORGE. There was a man called Luther who used to argue that you couldn't do that. I think Vatican II vindicated his point of view.

Mr. EARLY. Thank you, Father. We appreciate it.

Father GEORGE. I wish to thank the committee for its support of the International Student Exchange Program. Gretchen Carroll is the Director of our International Student Exchange Program at the University. We do thank the committee for its support.

We want to request that third-year funding for the International Student Exchange Program be included this year. This program has gone from the first-year cost of $4,000 per exchange student down to $900 per student as we perceive in the year to come. It is proving a workable model. It is working toward its institutionalization on schedule. In other words, that it becomes its own source of funding within our estimate of five years. So the institutionalization seems to be on schedule, too.

I would like to ask one other thing of the committee: that it would support our request to the Civil Aeronautics Board that the airlines be permitted to grant free transportation on a standby basis, space-available basis, to students who are going to countries who offer the same service in return. This permits the poor student, nowadays the middle class student, some of them, who can't

afford the fare to go to various countries. There is a precedent for that. We had students go to Geneva to aid Southeast Asian boat people and also our medical team that went to Thailand to work with the Cambodian refugees; the Board did make a waiver in these cases. We will ask again that the committee support that.

Mr. EARLY. We don't have jurisdiction over the CAB, Father. That would be the Transportation Subcommittee.

Father GEORGE. All right, I will ask the Transportation Subcommittee. It would help, though, if the committee would suggest that it was a good idea.

Thank you. That is basically the sum of my testimony. If you have any questions, we are prepared to answer them.

Mr. EARLY. You have lowered the first-year cost of the International Student Exchange Program from $4,000 to $900 per student. Why was the first-year cost so high?

Father GEORGE. Well, the first time was basically setting up the program. We had a smaller group of numbers. As the student base increased, the administrative costs really didn't increase as much per student and it gradually——

Mr. EARLY. How many students do you have?

Father GEORGE. We project for the third year it will be about 600. We expect 200 for this year and I think there was only 30 for that first year. The funding came through a little late the first time around.

We started off with students primarily going to Europe because of the attention to set a model that would work, so developing countries would have a model to work with. Latin American countries usually follow the lead of European universities. In the earlier costs, we had to set up transfer of credits which is a fairly sophisticated business when dealing with ministries of education in other countries. Sometimes the other countries don't want to accept our credits and sometimes various other universities don't want to accept theirs in the United States.

Mr. EARLY. Fine. Do you have anything to add?

Father GEORGE. She knows a lot more about this than I do.

Mr. EARLY. They usually do, Father.

I want to thank you for your testimony.

Mr. Hightower?

Mr. HIGHTOWER. I have no questions at this time.

Father GEORGE. Thank you. Happy Easter.

TUESDAY, APRIL 1, 1980.

LEGAL SERVICES CORPORATION

WITNESSES

CHARLES DORSEY, CHAIRMAN, PROJECT ADVISORY GROUP
BRUCE MORRISON, CHAIRMAN OF THE FUNDING CRITERIA COMMITTEE OF THE PROJECT ADVISORY GROUP

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Mr. EARLY. Next we will hear from Mr. Dorsey.

STATMENT OF MR. DORSEY

Mr. DORSEY. Mr. Early, members of the committee, my name is Charles Dorsey. I am the Chairman of the Project Advisory Group which is a nationwide organization of legal services field people who represent field programs in legal services, both the workers in legal services as well as clients. We appear once again this year to give you our position on the appropriation for Legal Services Corporation which is the national funding source for legal services.

To present our testimony, I would like to introduce to the committee Mr. Bruce Morrison who is the Chairman of the Funding Criteria Committee of the Project Advisory Group and the Director of the program in New Haven, Connecticut.

STATEMENT OF MR. MORRISON

Mr. MORRISON. Thank you.

Mr. Chairman, we are pleased to appear again this year to speak in terms of the needs of the client community that we serve for strengthening the legal services program that seeks to respond to their legal needs.

Over the past several years this committee has strongly supported the development of a nationwide legal services program from a program when the corporation began which was limited in its scope and served only certain areas of the country. That coverage of the entire country is being achieved at this time in 1980.

We emphasize that that national program is one which provides minimum access to legal services to the poor. It is not a program which meets the needs of the poor in any way approaching a complete way. It is not a program which meets the statutory goal of the Legal Services Corporation Act, equal access to justice. It is a beginning. It is an important beginning, but it is just a beginning.

It is a program, however, which provides a lot for the amount of money involved. It is a program staffed by committed workers who work long hours, who work at low salaries, and who work in spartan offices. It is not a program with fat and waste. It is a highly efficient and highly productive program. It is an effective program. It is a program that has brought a lot of service to a lot of people in an efficient way.

Mr. EARLY. It is not an inexpensive program, though. LSC has requested up to $350 million for fiscal year 1981.

Mr. MORRISON. We would hope it would approach $350 million. This year it is $300 million. It is not a cheap program.

Mr. EARLY. Mr. Hightower has a question at this point.

Mr. HIGHTOWER. Mr. Morrison, you would agree, I am sure, that the clients of your people deserve professional-type representation?

Mr. MORRISON. Absolutely.

Mr. HIGHTOWER. Would you encourage professionalism in the attorneys that go out under legal service sponsorship?

Mr. MORRISON. Absolutely, and certainly that is a goal. Professional and specialized and effective representation is what we are about.

Mr. HIGHTOWER. Do you give any kind of special training or do you know if these people receive any kind of special training or instruction? Many of them are new practitioners, new in the practice of law and have not had experience in dealing with the public and individual clients.

Do you give them special instructions in the sort of things that many old-time lawyers have acquired by coming up through the ranks in private practice or are these young people pitched in the water and told to swim?

Mr. MORRISON. Let me answer that two ways, if I might.

First, the Legal Services Corporation and the programs that it funds at a state and local level have an extensive program of training for the new lawyers and new paralegals as they come into our programs. We attempt to address the breadth of their needs in terms of professionalism, the skills that are needed to practice, and the approaches to practice which are effective.

Mr. HIGHTOWER. The reason I asked you these questions is that some things had not come to my attention when the Director of the Legal Services Corporation came before this subcommittee.

We have an area, not in my district but in West Texas, that has been getting some press release type of coverage in Eastern newspapers in regard to some cases that are being filed out there. In these articles, such terms as red-neck and other colloquial descriptions that are non-flattering concerning the people of the area are used. That is very upsetting to us. We would be concerned about an experienced practitioner engaging in any kind of activity like that.

I always understood, in 25 years of practicing law, that I didn't practice law in the newspapers and I never issued a press release in regard to any case. If I responded to press inquiries, it was by nature of a response. I don't understand press releases coming from these offices, nor do I understand the highly inflammatory type of information that would seem to be, if it were publicized locally, trying the case in the newspaper. But they are carefully not released locally but put in the newspapers in the East.

Could you give me some thoughts on that?

Mr. MORRISON. I will try to.

First, I am not familiar with the specifics to which you refer.

Mr. HIGHTOWER. Perhaps you don't have a clipping service, but I would think that some of your people in LEAA, I mean legal services, would be aware of the kind of publicity that they are getting in the Washington Post and New York Times.

Mr. MORRISON. It is important not to confuse the LEAA with the legal services.

Mr. HIGHTOWER. I know. I have another speech for them. But it is important that the people that are in administrative positions know about these things. I hope to get some responses from the Director. But I didn't want to pass up this opportunity to hear from you.

Mr. MORRISON. If I might comment a bit on that, certainly without knowing the facts I won't make any statement about what is going on in West Texas. However, I would say that there is a matter which the committee should keep in mind about your concern about the professionalism and experience in the program.

We support the creation in the legal services community of an experienced staff. One element of retaining people in the legal services offices is the kind of resources that pay people salaries which are comparable with the public sector for other lawyers such as Attorney General offices in the various states.

At the present time, the salary levels for legal services workers nationally come to some $60 million less than comparable salaries in Attorney General offices. That data is submitted with our testimony.

There is also a need to improve and strengthen the kinds of training, supervision, and support that is given to these staffs. There is included in our proposal a funding table for that.

Mr. HIGHTOWER. In other words, you are saying I am making your case for you?

Mr. MORRISON. Well, there is no doubt that legal services over the years have been primarily young and inexperienced practitioners. We think that the clients will be better served and the country will be better served if we improve the retention of people with experience in the legal services movement. I am sure that there have been errors made in various local programs. I don't know that all of them are due to inexperience. But I think that in the main, the response to the problem which you may be identifying is improved resources for training, and improved resources for salary comparability. We are not talking about comparability with private sector types of practice, but practice in other comparable public sector jobs in the states in question.

Mr. HIGHTOWER. Really, I think I am being charitable to charge this to inexperience.

Mr. MORRISON. Well, perhaps. I don't know the facts, as I said. But I would say that it is that there are cases that are brought by legal services' lawyers which are controversial and which will find their way into the paper. I don't understand that to be your concern but rather the apparent tone of what has been presented.

Mr. HIGHTOWER. It has been my experience, even in a rural area, if something very controversial or very newsworthy happens, it finds its way into the paper. There are antenna out there of the news media that can pick this up. It doesn't need to come from a law office.

Mr. MORRISON. Yes. The only other thing I would note about publicity is that the only place in which I am familiar in our practice with the use of the media is to inform clients about legal rights that they may have or the existence of services to which they are entitled. It seems to me that is an altogether appropriate use of publicity.

To make claims in the newspaper of other sorts, and certainly claims in the kind of language that you have suggested, are not consistent with the code of professional responsibility and I would not think that that was appropriate. But it is often difficult to attribute what comes from the practitioners involved and what may be generated by the press itself.

I don't know if that has addressed your question.

Mr. HIGHTOWER. Well, I don't think that the Washington Post has a reporter in Clifford, Texas.

Thank you, Mr. Chairman.

Mr. EARLY. Mr. Morrison?

Mr. MORRISON. Some of what I intended to say has been covered in response to that question. I think I can summarize best by saying that minimum access was a goal that has been pursued with the support of this committee and that is on the verge of being achieved. In achieving minimum access, a number of components of the program were left behind and were not accomplished, and the program that we have is not as strong as it should be.

The areas that I have already mentioned in terms of comparability of salaries, in terms of support and training, are important. Also important is the extension of services to institutionalized persons and to foster children. These are individuals who were not included in the 1970 counts of poor people and therefore funding has never been provided for services to those individuals.

Most important of all is to provide a reasonable cost-of-living increase this year over last year in order to maintain the level of minimum access that we have achieved. Without that increase, there is going to be a retrenchment and a pulling back from minimum access as it is achieved. This is not a program where there can be substantial cuts because there is fat. It is not a program with fat. It is a program where people are working in very spartan circumstances as I have expressed.

Either way we look at this program, we need to expand it substantially to meet a higher proportion of the legal needs of our clients above minimum access and we need this year to put down the base to do that. But even if your view is that minimum access must be the only access for a period of time, at least that minimum access ought to be a strong, firm program that can be maintained in future years.

We must avoid retrenchment now that the goal of minimum access has been reached. We would hope you would do that with the proper attention to the items that we have listed in our budget proposal.

Mr. EARLY. Thank you for your statement.

Mr. Dorsey, we will include your lengthy statement in the record.

[The statement follows:]

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STATEMENT OF THE
PROJECT ADVISORY GROUP
ON BEHALF OF THE LEGAL SERVICES FIELD PROGRAMS

BEFORE THE

UNITED STATES HOUSE OF REPRESENTATIVES APPROPRIATION SUBCOMMITTEE
ON STATE, JUSTICE, COMMERCE, THE JUDICIARY AND
RELATED AGENCIES

PRESENTED BY

BRUCE A. MORRISON
CHAIRPERSON, PAG FUNDING CRITERIA COMMITTEE

AND

CHARLES H. DORSEY
PAG CHAIRPERSON

APRIL 1, 1980

Thank you for the opportunity to appear before your subcommittee to present the views of the Project Advisory Group (PAG) on the 1981 appropriation for the Legal Services Corporation. We have consulted extensively with the LSC staff in the preparation of its proposed budget and have overseen the development of PAG's alternative budget for the Corporation.

The past five years have marked a period of substantial expansion of coverage of LSC-funded programs. Nonetheless, this represents only a first step in realizing the purpose of the Legal Services Corporation Act to provide "equal access to justice." We hope to persuade you today that substantially increased funding is needed for 1981 to prevent the erosion of the progress of the last five years and to solidify the base for future growth toward the goal of equal justice.

I. The Extent of the Need.

In 1980, the first great goal of the Legal Services Corporation, "minimum access" will be achieved. But the access that is provided to the poor is "minimum" indeed. Our best estimates put the ability of the average program to respond at one-eighth of the articulated demands for legal help. Seven out of eight potential clients are being turned away, not for lack of need but for lack of resources to respond. When the myriad, serious, unrecognized needs for legal assistance are added, the level of coverage shrinks even more.

Over the past fifteen years, the legal services community has compiled an impressive record of achievements. It has addressed the pressing problems of millions of clients. It has reformed institutions and practices which denied poor people their basic rights. Unfortunately, most of the poor's pressing legal problems remain unaddressed, many of the most serious systematic legal problems have not be confronted, must less solved.

It is appropriate that all who made the past progress possible take pride and satisfaction in the achievement. But it is the achievement of a long journey well begun, not a mission nearly completed.

Over the past year, PAG has begun to develop a funding concept which will allow a realistic continuation of the journey beyond "minimum access" toward "equal access to justice." We hope to present the first quantitative outlines of this approach in the 1982 appropriation process. However, the components of the "equal justice" funding formula are as follows:

1. A count of the eligible client population which conforms more closely to the statutory definition -- those unable to afford legal representation. The result will be a level higher than the unrealistic current "poverty" guidelines and also reflecting regional variations in the cost of being poor.

2. A rate of legal problems experienced by the eligible client population each year. This component will be based on the best available data on legal needs of poor people.

3. A definition of the units of service -- staffing structure, delivery models, and appropriate equipment and facilities -- needed to respond to the range of legal problems experienced by eligible clients. This component will reflect the range of approaches, including pro se and lay advocacy, pro bono assistance, and various staffing patterns for legal services offices.

4. A realistic calculation of the cost of the units of the service. This component must reflect the resources needed to pay salaries comparable to other public sector employees and to provide the equipment and facilities to effectively represent clients.

We know that the full cost of this approach will be very large. Consequently, a relatively long period of staged growth will be necessary to achieve the necessary funding. However, until a start is made toward this goal, "equal access to justice" will remain hollow rhetoric to a majority of America's poor.

II. A Perspective on 1981.

Last summer, PAG approved a proposed 1981 budget for LSC of $403.04 million. This budget represents the amount needed in 1981 to begin to address major inadequacies in funding which resulted from the achievement of "minimum access."

In particular, the pursuit of "minimum access," i.e. nominal geographical coverage for every county in the country, with inadequate resources caused the following problems, among others:

1. Inadequate provision for the toll of inflation on existing programs.

2. Continuing pressure to hold staff salaries below comparability with other public sector legal staffs.

3. Failure to develop national and state support and training programs to a level commensurate with the greatly expanded field programs.

4. Failure to provide funding for representation to the institutionalized and foster children.

5. Inattention to the variations of cost of delivery among different areas of the country.

6. Failure to adequately develop client participation and alternative forms of advocacy, such as pro se and lay representation.

The PAG proposed budget for 1981 seeks to address each of these inadequacies, at least partially. Except for the proposed extension of funding for coverage to the institutionalized, the $403.04 million budget permits no substantial expansion of services. Rather, it provides the resources to provide the inflationary increase support, and training needed to keep the "minimum access" program effective for those clients it can serve and to avoid the need for retrenchment. The proposed budget includes approximately half the funds needed for salary comparability. Some relief for high cost and rural areas is sought through limited funding increases for programs where the delivery costs are higher.

Thus, an authorization of $403.04 million is needed in 1981 if a solid base for effective national coverage is to be maintained. Funding at this level will still leave the program approximately $30 million short of salary comparability in 1981. It will still provide a program which addresses only about one-eighth of the demand for legal services from the low-income community, albeit more effectively and with greater impact due to support and training improvements and better retention of experienced staff through more comparable salaries.

Since the budget was prepared, two contradictory events have occurred. Inflation has soared to near 20% making the cost-of-living increase of 9% on personnel costs and 13% on non-personnel items far too low. At the same time, the Congress has determined that the 1981 federal budget must be balanced, making substantial increases in any appropriation unlikely. Thus, as the need grows, the political climate is inhospitable to an adequate funding increase.

However, despite this situation, we believe that the PAG budget is a proper reflection of the amount needed by LSC in 1981. Such an increase in the face of severe budget cutting is justified by numerous factors, including the following:

1. LSC, as a comprehensive national program, is only five years old. Its funding level at this point is not one arrived at over years of experience. The proper level for 1981 cannot be determined solely from the 1980 base, but must include adequate resources to meet the "minimum access" goals which were established over the past five years.

2. The proposed increases in the PAG budget do not represent new initiatives. Each item of new or increased funding is needed to assure that "minimum access" will be maintained and supported and that this level of access will be available to the institutionalized and foster children, who were excluded from the original formula.

3. The amount represented by the proposed increase, as well as by the LSC budget as a whole, is relatively insignificant in the massive federal budget. Skimping on the maintenance of this program cannot provide much help in balancing the budget but can greatly damage the ability of local programs to maintain services.

4. The legal services program has always operated with a minimum of administrative overhead. Most LSC funds have gone into direct provision of services. Local programs have routinely operated in spartan offices, with minimal support staff and low salaries. Everything has been geared toward producing the maximum services for each dollar. Even with the salary comparability proposed for 1981, staff salaries would still be a total of $30 million nationally below the levels paid by state attorneys general for their staffs, which themselves are below comparable federal salaries.

5. The impending recession promises greater hardship for poor people increased in number by growing unemployment. Retrenchment in the level of legal services would compound this problem. Yet retrenchment will occur if the costs of inflation are not covered. The legal services program does not include fat to be cut; rather it is woefully under-funded, even to provide the "minimum access" which the Congress has sought to develop over the past five years.

6. PAG projected needs for over $471 million for 1980. Our request for that year was trimmed to $370 million to reflect budget realities. Inflation alone justifies the increase in the 1981 budget to $403.04 million.

In sum, this is not the time to make minor contributions to a balanced budget by imposing on the legal services program a devastating inflationary tax. Retrenchment of the program the year following the achievement of "minimum access" would be a tragedy. Rather, the true cost of "minimum access" should be met in 1981. This can be done by adopting the PAG recommended budget.

III. Details of the PAG Budget for 1981.

We propose a 1981 appropriation for LSC of $403.04 million comprising the following items:

Budget Item:	Am't in millions of $
1980 Base	$300.00
Cost of Living Adjustment	30.55
Coverage of Institutionalized Poor and Foster-Care Children	18.00
National and State Support and Training	10.00
Legal Needs Study	.50
Salary Comparability	30.00
Implementation of the Cost Variation Study	4.00
Rural Operating Costs	6.00
Improved Client Involvement	3.99
TOTAL	$403.04

The justification of these amounts and of their inclusion in the budget are as follows:

1. Cost of Living Adjustment. The amount represents a 9% increase for personnel costs (estimated at 75% of the base) and 13% on non-personnel costs. The personnel increase has already been exceeded by the President's wage guidelines for private sector salary increases. The non-personnel increase was intended to cover actual inflation because these increases are generally not controllable. It has already been surpassed by the current inflation rate. Cost-of-living increases to programs over the past five years are already running far below the actual inflation rate. The inevitable result of continuing this trend would be retrenchment and retreat from "minimum access" just as it was to be achieved.

2. Coverage of the Institutionalized Poor and Foster Children. Although they were included in the national totals for the 1970 Census, children in foster-care facilities and persons confined to institutions were not included in the general population figures by state. As a result, when the Bureau of Social Science Research conducted its 1974 study of poor people on behalf of LSC, the study did not count the institutionalized poor or children in foster-care facilities resulting in their exclusion from the population count presently used for LSC funding. Although the LSC has received no funds to cover these poor persons, many legal services programs provide representation to them dispite the very limited resources available. Conversely, many of these persons are unserved and have very specialized legal problems requiring targeted and necessarily more expensive services. The LSC will need this amount in order to extend the same minimum services to the approximately 1.8 million institutionalized poor and 400,000 foster-care children that are presently afforded to others eligible for legal services. To provide coverage at the "minimum access" rate will cost $18 million.

3. National and State Support and Training. These activities are critical to the provision of quality legal services to the poor. They also enhance the productivity of the program by providing coordination of advocacy efforts on a state and national level. Unfortunately, the funding of these activities was allowed to lag behind in order to assure that a local program would be funded to cover every county in the country. The resulting dilution of support and training resources diminishes the quality and efficiency of the national program. The proposed increase would substantially improve the situation by bringing support funding more into balance with the larger number and size of local programs. An increase of $10 million for these activities will help restore the needed balance.

4. Legal Needs Study. Under the LSC Act, the Corporation is mandated to provide "high quality legal assistance to those who would otherwise be unable to afford adequate legal counsel." Although the goal of minimum access is a necessary first step in the process of achieving "high quality" legal assistance for poor persons in America, no one can seriously believe that the Corporation's full responsibility will be met upon achievement of minimum access. PAG therefore proposes that a study be funded to establish: (1) the actual number of persons in the nation who cannot afford private counsel; and (2) the real incidence of need for legal services by the population which cannot afford private counsel. The resultant data would provide a basis for calculating the true cost of providing quality services in the future and thus help the Corporation meet its obligations pursuant to the Act. To this end we conservatively request $500,000.

5. Salary Comparability. While there has been a considerable increase in funding of field programs since 1975, priority has been given to expansion of access to underserved areas of the country and to those areas which had not reached the minimum access goal of the Legal Services Corporation. In the period between 1970 and 1975, funding was stagnant. Increased funds for inflation adjustments (cost of service) have ranged between 5 and 5.5% since 1975 (obviously regressive); the cost of services to programs has skyrocketted over the last 10 years. Therefore, salaries in programs have remained considerably below those in the public and private sectors which has been a major factor in the inability to maintain experienced staff.

Many existing programs have been forced to reduce staff and cut back on services. Existing programs which have received increases have often been forced to choose between increased services and moving toward competitive salaries.

It is critical that programs be able to pay salaries at least comparable to those paid by government organizations in the region where the individual program is located. The Congress recognized this need in FY '78. If we are to take seriously the mandate of the Legal Services Act to provide "high-quality legal assistance" and to heed our ethical obligations under the Code of Professional Responsibility, we must set aside the attitude that legal services is a post-graduate training school for young attorneys and instead take steps to retain experienced staff in programs. In an effort to set a base for comparable salaries we have compared LSC field program salaries with those of the salaries of the state offices of attorneys general. The amount needed by the field for comparable salaries with the offices of the state Attorneys General would be approximately $50 million. (See Appendix I.)

Comparable wages must of course include fringe benefits in order to be truly competitive. According to various market surveys, the typical business corporation today spends an amount equivalent to 30-35% of payroll on fringe benefits. We have calculated that a reasonable figure to enable legal services programs to have basic fringe benefits plans for health, life, disability, retirement, unemployment compensation and workmen's compensation is 18%. We estimate that this would cost an additional $10 million.

Because of the limitations on available funds, we propose that comparable salaries and fringe benefits be achieved over a two-year period. Thus, $30 million is requested in 1981.

6. Implementation of the Cost Variation Study. LSC has studied the differences among geographical areas in the cost to programs of the goods and services required for operation. The premise was that if it costs significantly more to operate one program than another in order to serve the same client population, an offsetting allocation of funds should be made so that equal levels of service capacity could be maintained. The Cost Variation Study results revealed that in certain places (e.g., parts of California) there were significantly higher costs. Although calculations are not yet complete, we estimate that it would cost $4 million to implement the results of the study.

7. Rural Operating Costs. The recently completed 1007(h) study recognized that the delivery of legal services to the many poor persons who reside in rural and isolated locales imposes other costs than those required for the delivery of services in other areas. We have estimated that it would cost $6 million to adjust for such costs in the provision of rural legal services.

8. Improved Client Involvement. The Legal Services Corporation Act recognizes the need and sets as a priority the involvement of clients in program policy determination and priority setting and the development of lay and pro se advocacy activities. In order to further implement this goal by stimulating increased client involvement, we are recommending that an amount equal to 1% of the remainder of the LSC budget be allocated to such activities.

It is certainly the case that initial determinations by the authorizing committees indicate that our full proposed budget may not be authorized for 1981. However, the importance of all of the items detailed above should convince this Subcommittee to support the maximum authorized level for the 1981 LSC budget.

IV. The Alien Rider.

In 1980, the LSC appropriation act included a rider barring the use of LSC funds for the representation of individuals known to be in the country in violation of the immigration laws. We opposed the restriction last year and urge that it be removed from the 1981 appropriation. A complete discussion of the issue is included in Appendix II, which is a copy of testimony presented to the authorizing subcommittees by Peter Schey of the Legal Aid Foundation of Los Angeles.

The rider is an inappropriate amendment of the Legal Services Corporation Act through the appropriation process. It should be left to the authorizing committees to consider such restrictions in light of the overall considerations bearing on the contents of the Act.

Furthermore, the restriction is unwarranted. Legal services clients in such matters have colorable claims to being legally in the country; given our funding shortage, we do not have the time or inclination to take any meritless cases. Consequently, to bar access to legal services in such situations is to deny individuals their right to hearing on claims created and protected by our law. As with the other substantive restrictions, it is to grant a series of rights with one hand and to block the means of enforcement with the other.

It bears emphasis that nearly all of our immigration work falls into a few general categories: matters designed to keep families together, where one or more members (such as native-born children) are already U.S. citizens or legal permanent residents; efforts which really go to the benefit of someone legally in the country (such as keeping a son or daughter in the country to care for an aged parent who is a U.S. citizen); and work on behalf of refugees seeking political asylum.

* * *

We thank you for the opportunity to present this testimony. We urge that, during these difficult economic times, small, symbolic savings not be achieved at the cost of imposing additional hardships on the poor. A reasonable increase in LSC funding is essential to maintain the current level of services.

II. Funds Needed To Obtain Legal Services Equivalency with Attorney General Salaries

LSP Position and Experience Level	Avg. AG Salary	- Avg. LSP Salary	= Difference	x No. Persons in LSP's	= Dollars Needed
1. Staff attys. 1 yr. or less[1]	$14,934	$13,118	$1,816	1,537	$ 2,791,192
2. Staff attys. 2 yrs.	18,550	14,470	4,080	688	2,725,440
3. Staff attys. 3 yrs.[2]	20,309	15,589	4,711	495	2,331,945
4. Staff attys. 4 yrs.	22,068	16,279	5,789	290	1,678,810
5. Staff attys. 5 yrs.[3]	23,307	17,074	6,233	136	847,688
6. Staff attys. 6 yrs.	24,546	17,869	6,672	136	907,392
7. Staff attys. 7 yrs.	25,785	18,664	7,121	136	968,456
8. Staff attys. 8 yrs.	27,024	19,459	7,565	136	1,028,840
9. Mng. attys.[4] 1 yr. or less	14,934	13,118	1,816	193	350,488
10. Mng. attys. 2 yrs.	18,550	14,470	4,080	109	444,720
11. Mng. attys. 3 yrs.	20,309	15,598	4,711	182	857,402
12. Mng. attys. 4 yrs.	22,068	16,279	5,789	186	1,076,754
13. Mng. attys. 5 yrs.	23,307	17,074	6,233	149	928,717
14. Mng. attys. 6 yrs.	24,546	17,869	6,672	149	994,128
15. Mng. attys. 7 yrs.	25,785	18,664	7,121	149	1,061,029
16. Mng. attys. 8 yrs.	27,024	19,459	7,565	148	1,119,620

LSP Position and Experience Level	Avg. AG Salary	-	Avg. LSP Salary	=	Dif-ference	x	No. Persons in LSP's	=	Dollars Needed
17. Project Directors(5)	$31,555		$25,892		$5,663		208		$ 1,177,904
18. Paralegals(6)	15,498		9,296		6,202		2,377		14,742,154
19. Support Staff(7)									13 ,636, 045
					TOTAL				$49 ,668, 723

NOTES:

(1) We used the nearest AG equivalent of 0 years' experience.

(2) There was no AG equivalent so we split the difference between the AG salaries at 2 and 4 years.

(3) After 4 years, LSC lumped all attorneys under a category of 5 years of more while the AG jumped to 8 years. So we prorated over 4 years the LSC salary average between $16,279 at 4 years and $19,459 at 5 years or more; and we divided by 4 the number of LSC attorneys with 5 years or more of experience. On the AG side we prorated salaries between $22,068 at 4 years and $27,024 at 8 years.

(4) There was no Managing Attorney equivalent among AG offices. The State legal department head salary was for more experienced attorneys than most of our Mng. Attys. And so we have, for the sake of argument, treated Managing Attorneys as if they were regular staff attorneys and have followed our calculation procedures for the latter.

(5) We do not believe it would be correct now to contend that all 281 field project directors should be paid the equivalent of the national average of state Attorneys General. So we identified at least 73 large Legal Services programs which arguably could be paid the AG equivalent and eliminated them from the analysis, assuming without specific data that those directors are already approximately comparable. The other 208 we made comparable to the chief lawyers of major state agencies.

(6) We established paralegal comparability with AG investigators. Because the investigator salary data was in the aggregate, i.e., not broken down by experience levels, we used the aggregate data for paralegals as well.

(7) The AG study furnished no data re support staff. But we know that support staff salaries account for 17.9% of the average budget of field programs. The legal and other staff salaries are 47.3% of the budget. The salary comparability needed for non-support staff is $36,032,679 which is 47.3% of $76,179,025. Support staff salaries are 17.9% of $76,179,025 = $13,636,045.

APPENDIX II

Testimony on Legal Services
Representation of Non-citizens

by

Peter Schey, Attorney
Legal Aid Foundation of Los Angeles

I appreciate the opportunity to appear before this distinguished Subcommittee today to address the matter that has become one of the greatest concerns within the Legal Services community. I am specifically talking about the interest in restricting indigent non-citizens from having access to free legal services, and therefore to our administrative and judicial systems of justice.

We understand that through the form of a letter to Congressman John Slack, Chairman of the Appropriations Subcommittee on State, Justice, Commerce, the Judiciary and Related Agencies, Mr. Robert Kastenmeier and Mr. Tom Railsback --the Chairman and Ranking Minority member of this Subcommittee-- have previously expressed the preference to have this matter explored by the authorizing Subcommittee before whom I appear today. We applauded your action. We are here today to offer you some straight facts on Legal Services representation of aliens. We hope this information will be of some value to you in making judgments and decisions on this emotional but important subject.

I would like to spend a few minutes explaining what types of services are provided by Legal Services programs (LSPs) to non-citizens, how these cases generally come to the attention of a field program, and who benefits from the availability of these services.

A General Survey of Legal Assistance Available to Non-Citizens

In an effort to more precisely evaluate the work being undertaken by LSPs assisting non-U.S. citizens, we recently contacted 10 programs located in areas having among the highest per capita immigrant populations in the country.

These included programs in Texas, California, Florida and New York. We inquired into the quantity and type of legal assistance that was being provided to indigent foreign-born people. The information obtained from the various LSPs corroborates our own experiences in Southern California, which of course is heavily populated with foreign workers. In summary, we found the following patterns to exist:

(1) Approximately 10% of the programs' clients were non-citizens. In all geographic areas, non-citizens were under-represented in their utilization of legal aid services when examined on a per capita basis;

(2) In relation to their total caseload, those being represented solely on an immigration law issue amounted to less than 2% -- of this number more than 9 out 10 involved a U.S. citizen regularizing the status of a close relative;

(3) Approximately 75% of the non-citizen clients were being primarily represented on matters unrelated to their immigration status; and

(4) Approximately 25% of the non-citizen clients had both an immigration problem and an unrelated problem requiring legal assistance.

These patterns are fairly common throughout the Southwest and the Eastern seaboard. They reflect a number of trends which are commonly recognized in LSPs located in areas where the immigrant population is high. Firstly, the majority of clients who are being assisted with an immigration matter come to the Legal Services office needing assistance in other areas of the law. For example, while interviewing a client with a landlord-tenant problem it will surface that his wife is not in possession of Immigration and Naturalization Service (INS) documentation and that retaliatory exposure to INS has been threatened by the landlord. Or while interviewing a U.S. citizen mother with a welfare problem it will come up that she has one child who needs medical attention but the child has not been documented with INS. The underlying immigration problem is sometimes more

important to the client than the housing, welfare, or other non-immigration problem being worked on. And, sometimes a successful resolution of the immigration problem aids in resolution of the other problems faced by the client. For example, a client who is a U.S. citizen recently sought the assistance of a Legal Services program in Houston, Texas, because his child was excluded from a public school without a fair hearing of any type. The immediate issue was one of the child's right to an education and a due process hearing procedure upon exclusion from a tuition-free public school education. The school claimed that the child could not enroll because she did not have INS documentation. The simplest, and for the child the most desirable, result was reached when a Legal Services attorney registered the child with INS, began the documentation process, and achieved enrollment for the child. Whether viewed from the perspective of achieving justice, or in a cost-benefit framework, the best result in this case was achieved by surfacing this child and moving forward the INS documentation process.

Secondly, in more than 9 out of 10 cases in which the client's primary problem must be resolved with the Immigration Service, a United States citizen or permanent resident alien is seeking immigrant status for a spouse, parent or child. The legal assistance provided by the local program generally involves no more than helping the client -- who is almost always the U.S. citizen-- to complete the forms required by INS and to then accompany the client to an examination which is conducted by INS. Assisting clients with these cases furthers our national policy of family reunification, it often allows families to end their receipt of public assistance upon immigration of the breadwinner of the family, it surfaces people who are documentable but who would probably continue to lead an underground existence without some legal help, and it reduces the bureaucratic process for INS. Precisely for this last reason the INS has taken a position of opposing any restriction on alien access to Legal Services. Perhaps more importantly, the indigent U.S. citizen mothers and fathers, and sons and daughters, will be the ones to feel the full impact of efforts to restrict Legal Services from representing certain non-citizens present in the U.S.

Thirdly, most non-citizen clients being represented by LSPs are receiving assistance on matters unrelated to their immigration status. Non-citizens, even more than citizens, are subjected to the exploitation and unfair treatment at the hands of unscrupulous merchants, landlords, employers, etc. Many Western European countries have recognized that foreign visitors and workers need greater, not less, legal protections and these countries have been more successful than the U.S. in decreasing the exploitation of non-citizens. To the extent that foreign workers displace American workers in the job market --a matter which many economists seriously dispute-- such displacement is further institutionalized with every step which is taken to protect and tolerate the exploitation of the foreign-born. Beginning this process of restricting aliens' access to the judicial system will obviously further institutionalize the exploitation of non-citizen workers in this country. While certain unscrupulous factory owners and sweatshop operators and growers will certainly cheer at the passage of such a restriction, those truly concerned with the societal costs of poverty, low wages, unemployment and underemployement, will understand the negative long-term implications of raising our judicial system just a few inches out of reach of poor, foreign-born workers.

Our society will not be advanced because a grower can spray pesticides from an air plane while foreign workers --who will not have access to the judicial system-- are picking our vegetables in the fields below. Our society will not be a better one because undocumented migrant workers can be forced to live in cardboard boxes with their U.S. citizen children while earning $12/day and having no access to the judical system. We gain nothing if we stand by and watch the father of a United States citizen child being deported only because he had no access to legal counsel.

Some of the earliest LSPs in New York City in the late 19th century were established particularly to assist the foreign-born population. We have now perhaps come full circle as we observe those who have proposed the first restriction of its kind which defines a group of people and virtually eliminates for them access to the judicial system. While proposed restrictions at this time ostensible apply to only certain segments of the foreign-born population, virtually the entire immigrant community is already aware of these shifts in national policy and a sense of apprehension and fear has already set in. It is well-known that many undocumented immigrants will not seek social services, including free legal services, out of fear of exposure. This fear prevents a local Legal Services program from learning that a family's water has been cut off, or that a child is not going to school, or that someone needs medical attention and cannot afford a doctor. It is difficult to understand who benefits when we heighten this fear by passing a law that further restricts access to the legal system. Such a law would also severely damage the credibility of local legal aid programs which must reach out to all poor people in a community rather than being forced to divide the community into those who may and those who may not obtain legal redress.

I would like to end by pointing out a few case examples of the role the Legal Services staff members play in assisting foreign-born clients. I was recently told of a case in which an undocumented alien was arrested by INS working in a factory. The alien was married to a lawful permanent resident who had been residing in this country for 20 years. The husband had been here for about eight years and the couple had two United States citizen children, aged four and seven. He supported the family while the wife cared for the children and her handicapped mother. INS followed their normal practice of initiating deportation proceedings against the husband. The family contacted a Legal Services attorney. The family did not want to move the children and handicapped mother to Mexico and planned to move to a cheaper apartment and to seek public

benefits upon removal of the breadwinner from the country. They wanted to know what could be done for the husband and what their eligibility would be for public benefits upon his deportation. The attorney immediately filed naturalization papers for the wife and an application on her behalf to confer immigrant status on her husband. The waiting period to obtain immigrant status was estimated to be two years and the attorney was then able to convince INS to allow the husband to remain with his family during this processing period. This resolution saved INS money as they did not have to go forward with a formal deportation hearing. Thousands of dollars in welfare costs were saved by the agreement which prevented deportation of the family's sole source of income. And most importantly, the uncertain psychological and social affects of removing the father/husband from the family were avoided. It will be a sad day in our history of jurisprudence when a Legal Services attorney is required to turn this case away under the compulsion of federal law.

In another recent case a retired 70 year old Italian national sought the assistance of a Legal Services office. He had lived in the United States since 1927 and was married to a U.S. citizen. The client had raised six U.S. citizen children. He had served in the U.S. Armed Forces during World War II. Never having regularized his immigration status, he now wanted to visit his homeland and his only surviving sister once before passing-on. Based on his long-term residence in the United States, a Legal Services attorney was able to establish his entitlement to lawful immigrant status and to assist him in obtaining INS travel documents. He was able to make the final visit and to see his sister for the first time in 52 years!

In another case a United States citizen client with a landlord-tenant problem informed a legal aid attorney that the landlord had threatened to turn his wife in to INS because she was undocumented. The landlord "urged" the client to settle his case. Upon questioning, the client explained how his wife could not

properly care for their three U.S. citizen school-aged children because she had been ill for several months. They could not afford private medical treatment and she did not qualify for public medical benefits because of her immigration status. He also told how even before the onset of her illness she would never visit the children's school or speak with their teachers because of her status. The Legal Services attorney was able to file documents with INS to regularize the wife's status. Upon the filing of these papers medical treatment was arranged for the wife. Within approximately four months she was lawfully immigrated. Her health improved; she was able to locate part-time employment; the well-being of the children improved; and the family's combined income meant they were no longer eligible for legal services. Their housing problem was solved when they moved to a better apartment. The Legal Services attorney, working with the family, had achieved (perhaps inadvertently) what legal services should be all about: the family had finally escaped from poverty.

These examples are not unique. They reflect common problems faced by many clients whose last hope is often their local Legal Services office. More, not less, access is needed by poor people to free legal services programs. Limiting access based on alienage will cause more long-range problems than it will solve. The foreign-born population in this country may be an easy and popular target for restrictionist legislation --they cannot vote, they have no access to the media, because of their poverty they have minimal access to the courts, they have no access to social services, in a word, they are vulnerable. There will be little to be proud of when we slam the court-house door in their faces. Before we do it I hope we pause and reflect on the proud heritage we proclaim: that this is a nation of immigrants.

Thank you for the opportunity to appear before you today. My colleagues and I would be happy to respond to any questions you may have.

TUESDAY, APRIL 1, 1980.

SMALL BUSINESS ADMINISTRATION

WITNESSES

HON. WILLIAM S. GREEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

DORIS COLGATE, OFFSHORE SAILING SCHOOL

Mr. EARLY. Our final witness today will be Congressman William Green of New York who will introduce Doris Colgate.

STATEMENT OF REPRESENTATIVE GREEN

Mr. GREEN. Mr. Chairman, I am very pleased to be able to come before you today to present Ms. Doris Colgate who is the co-owner and vice president of the Offshore Sailing School Ltd., a 16 year old corporation based in New York.

Ms. Colgate is a constituent of mine and has been involved in a counseling service which received funds administered by the Small Business Administration.

I realize that your time is short today and, consequently, I will let Ms. Colgate proceed to share her testimony with you.

Ms. COLGATE. Thank you, Mr. Green.

STATEMENT OF MS. COLGATE

My name is Doris Colgate. I am co-owner and vice president of the Offshore Sailing School, a 16 year old New York City based corporation with branches in Martha's Vineyard, Massachusetts; Captiva Island, Florida; Irvington, Virginia; Tortola, British Virgin Islands; and City Island, New York.

Since September 1978 I have been a participant in a very exciting management training program offered by the American Woman's Economic Development Corporation (AWED) in New York City. I understand this committee is studying the feasibility of a national women's business enterprise program based on the AWED model, and I firmly believe if implemented you will see a rapid and large return on this important investment of federal funds.

I came to AWED with a 14 year old company that was growing, but only enough to keep up with inflation. Offshore Sailing School was founded by my husband in 1964 to teach people how to sail or better their sailing skills—usually in conjunction with a vacation at a fine resort.

In the beginning, Steve Colgate was the only instructor. The school used one boat and had one location. When I joined it 10 years ago, it had a few more branches, a few more employees, but was still operating at a marginal level. Steve Colgate was and still is the foremost sailing educator in the country, and he was totally engrossed in the educational aspects of the company, tending to let the business end slide. Working side by side with me assuming the managerial and marketing tasks, we began to grow by trial and error and with no training whatsoever.

We survived the 1974–75 recession and continual lack of capital because we are entrepreneurs and particularly because I, as a woman entrepreneur, have a burning desire to prove that women are very capable businessmen.

But women need help. We cannot build on instinct alone. We do not have the resources or the associations with other women or men that men alone enjoy. Whereas many men who start their own businesses come from high level positions in large companies, few women have yet to reach those positions. When a man has a business problem, he can discuss it with peers and former employers. He has contacts and organized support from groups like the Young President's Organization. From the time men, as boys, start playing hand to hand sports in their backyards, they are building a capability to deal in business later on.

Today's women entrepreneur was brought up in a dependent atmosphere. While this is changing now, it will be another generation before businesswomen gain equal footing with businessmen.

In the meantime, the entrepreneurial tendency in many capable women must be nurtured. We need a forum where we can be trained, advised and learn to be better businessmen. Such a forum now exists, but so far only in New York.

During the 1½ years I have been with AWED, my company's gross income has risen 44 percent and will break $1 million this October. At present, we employ 10 in our New York headquarters and 40 in branch locations. I attribute most of our recent growth to my training at AWED.

The other women participating in the seminar program at AWED with me were retail store owners, a restaurant owner, manufacturers, wholesalers, contractors, designers, executive recruiters, distributors, jobbers, marketing consultants, advertising agency owners, publicists and more—all whole or part owners of their companies, all actively dedicated to keeping their businesses alive, all highly success oriented.

Two of the women became owners when their husbands died, suddenly finding themselves with businesses they knew little about but needed to keep going for both financial and sentimental reasons. If they had not been enrolled in AWED, I firmly believe they would have failed and all their employees would now be on the unemployment roles.

Another woman, a successful executive recruiter with a large firm here in the capital, came twice a month to New York for our meetings. If she was successful, why was she a part of AWED? Because she was expanding, opening more offices, providing more jobs, and running into the problems and difficulties growing companies encounter, some insurmountable without the teaching and counseling provided by AWED.

Government figures reveal that one of every two businesses fail within two years and four of every five small businesses fail within five years. Among AWED participants, now numbering over 400 (with around 5,000 more enjoying individual counseling), only three have declared bankruptcy. Most are growing, and in a very difficult time.

AWED has provided services for me which I could not afford and did not even know existed. It has helped me bring my company to

a strong and profitable level which in turn has enabled me to increase my employee numbers.

When I was accepted in the program, I had never written a business plan for Offshore Sailing School. I had never seriously analyzed our price structure, nor had I costed out our expenses against income on a regular basis. I never read my balance statement sheet and income statement. Numbers scared me. Instead, I would ask my accountant, is it good or bad.

Through AWED I was and still am exposed to experts in a variety of important business fields. Many of these experts who counsel us are men—highly successful businessmen willing and anxious to see us succeed too.

I now read my financial reports, demand a monthly income statement, and sit down with my accountant each time to discuss how it fits in with our projections. Previously I had no projections and received only a six month and year-end statement.

I have learned about fascinating new avenues and methods for better marketing of our service. I decided, because of AWED, to hire a marketing director at a salary of $40,000 and increase my ad budget twofold—a gamble which is paying off and which I might add is also indirectly contributing to the tax roles by providing revenue for the companies where we spend money.

I wrote a business plan we still refer to and through AWED met with Allan Patricof, a venture capitalist, whose time I could not possibly have paid for. He tore my first plan to shreds and I wrote another that could be presented to capital investors, and was.

AWED helped me make a very important decision that had a definite impact on the welfare of our company. We had an option to buy a piece of commercial property costing $275,000 with a $60,000 a year carrying charge and up to a potential million dollars in renovation costs to suit our purposes. At the end of the first year of bi-monthly seminars at AWED, we split into groups of 10 and met once a month with a counselor from the Young Presidents Organization. In these meetings we were forced to bear our financial souls and discuss openly our problems with one another. In the course of these discussions my impending option date on the property came up and the group and advisor convinced me to let the option go. Had we bought the property, it might have put us under. We were very close to throwing 14 years of work down the drain.

Another area where AWED made a large impact on my business and many others is in pricing. Few of us charge enough for our services or products. While all my suppliers were raising costs to me I was holding prices at levels of three and four years earlier. After careful analysis of competition and the economic climate, I raised tuition rates on the groups at my advisor's urging. Business has increased; I am able to buy more boats, employ more instructors and office staff, spend more money on advertising, and fortunately or unfortunately, depending on who looks at it, more on taxes, too.

AWED helped me become a better employer, taught me how to manage, and helped me to solve a host of personnel problems. AWED has made me think business, do business in a business-like way, confronting all the angles and taking the good with the bad like a man. I have seen in myself and the other women in my

group a rising sophistication. We are becoming savvy, analytical, discerning, confident, and assertive.

It is not over. At least once a month I meet with an individual counselor at AWED, a kind of business doctor who reviews with me how my company is doing. The associations I and other women in the program have made are lasting. Most of us are doing business with one another. We meet to discuss business problems and help each other in decisions. We are in a sense beginning to build that circle of peers men grow up with.

A nationwide program, federally funded, based on the AWED model and run by dedicated, knowledgeable people will have a terrific impact on our economy by tapping one of our greatest national resources, women entrepreneurs. This program will certainly open up an area for new jobs and bring more revenue back to the federal government.

Mr. EARLY. Mrs. Colgate, we appreciate your statement. I don't know how you do in sailing, but you could do well in public relations.

In fiscal year 1979 the Women's Business Enterprise Program was funded at $400,000. The request for fiscal year 1981 is $13.6 million.

Ms. COLGATE. This is a special program based on the pilot model that you are talking about?

Mr. EARLY. Yes. You made an excellent statement for your cause.

Mr. HIGHTOWER. I want to congratulate Mrs. Colgate for a very fine statement. Her testimony and one of another lady earlier today impressed me that the best testimony this committee hears comes from people that are directly involved in the programs and not from the bureaucrats themselves.

Ms. COLGATE. Thank you. I was really involved and still am.

Mr. EARLY. We thank you very much for coming. We appreciate your testimony.

TUESDAY, APRIL 15, 1980.

OFFICE OF JUSTICE ASSISTANCE, RESEARCH, AND STATISTICS

WITNESS

MATTHEW G. YEAGER, GEORGE WASHINGTON UNIVERSITY

Mr. HIGHTOWER. Mr. Yeager, we will be very happy to hear from you at this time.

Mr. YEAGER. Thank you, Mr. Chairman.

I am Matthew Yeager, Assistant Professorial Lecturer in Forensic Science at George Washington University.

As your subcommittee staff well knows, last year I was directly involved in the authorizing legislation which created the Bureau of Justice Statistics. Therefore, I would like to take the opportunity to spend a few minutes with you talking in detail about three major policy issues that I think the subcommittee ought to consider with respect to the fiscal year 1981 appropriation request by the Bureau of Justice Statistics.

As you know, the Justice Department has requested approximately $10.5 million for programs for BJS in fiscal year 1981. This represents approximately a $5.5 million increase over 1980, and there are no staff increases permitted. The major increase will allow the continuation of the well-respected National Crime Victimization survey.

The three issues that I would like to talk to you about today, Mr. Chairman, can best initially be illustrated if you would turn to page four of my statement.

There is a chart at the top of page four of my statement, where I break down the subject program allocations for the Bureau of Justice Statistics. You can see at the top that I have provided an asterisk beside certain programs called PROMIS, Enforcement Systems, Corrections Systems, and what-have-you. Mr. Hightower, these are what are called system improvements. They are essentially management information systems such as CAPTIS, which is a computer-assisted prison transportation index. As you can see from the tentative figures for fiscal year 1981, there are no monies provided for these system improvements.

The reason I am pointing this out to you is because the authorizing legislation for the BJS, and I have cited that in my testimony, provides no legal authority for the Bureau of Justice Statistics to carry out system improvements. Yet if you examine the Justice Department's fiscal year 1981 authorization request, they make continued reference to system improvements. I would like to recommend, therefore, that the subcommittee disallow any systems allocations in the fiscal year 1981 appropriations and therefore permit this money to be reallocated to other statistical programs within the Bureau of Justice Statistics.

The second issue I would like to raise for your consideration, Mr. Chairman, is what I regard as a serious neglect that several statistical systems have received in the Bureau. The Bureau has done literally nothing with respect to Federal criminal justice statistics, particularly courts and corrections.

With respect to white collar crime, a major priority in the authorizing legislation, only $425,000 has been allocated to that particular area; and yet according to testimony before Congress, the cost of white collar crime dwarfs street crime by a ratio of some $44 billion to $4 billion.

Very little money has been apportioned to methodological research. Hardly any work is being conducted on juvenile justice or jail statistics, and no studies are being conducted on the reliability or validity of the FBI's uniform crime reports.

For these reasons, I strongly recommend that the subcommittee increase the Bureau's appropriation by $4.5 million, thereby bringing its total appropriation to $25 million for fiscal year 1981.

I might add, Mr. Chairman, as an aside, that the National Institute of Justice gets an allocation of $25 million for programs and yet the Bureau of Justice Statistics, which is just as important as the research arm, gets only a $20.5 million request.

I think there is plenty of need to get into some new statistical systems. I don't think $4.5 million is a lot of money considering what is happening with LEAA.

Therefore, I strongly suggest that allocation for programs for BJS be increased slightly to bring it up to par with its counterpart in research.

Mr. HIGHTOWER. What do you mean by your statement, "considering what is happening to LEAA?"

Mr. YEAGER. Well, it has become very clear upon consulting the House budget and Senate budget reports that both bodies, both the Senate and the House, are recommending there be no monies for LEAA. I might add, Mr. Chairman, that LEAA is different from the Bureau of Justice Statistics and the National Institute of Justice. They are now three separate entities. There is the research arm called the National Institute of Justice; there is the statistics arm called the Bureau of Justice Statistics; and now there is the LEAA, which is program assistance to states and localities which I am sure you are familiar with. The reference I was making was to the budget committee recommendations on both sides of Congress.

The last issue I would like to highlight for you is the staff issue. I make reference in my testimony to the House report on the Bureau of Justice Statistics. I am not going to repeat it here. I would like to, however, take a rather different approach to staff issues. Historically, there has been a very serious problem, Congressman Hightower, over the lack of an in-house analytical capability for the Bureau of Justice Statistics.

Nevertheless, within the Bureau of Census there exists a crime statistics analysis staff which is housed within the office of demographic analysis. This unit analyzes the national crime survey and the national prisoner statistics. Both data systems, I might point out, are funded by the Bureau of Justice Statistics under a contract.

As you well know, the Department of Commerce and the Department of Justice fall under the jurisdiction of this subcommittee. Therefore, I would strongly recommend that the subcommittee consider for its report language, language that would transfer the entire crime statistics analysis staff, which is composed of about 17 persons, to the Bureau of Justice Statistics. This would require no increase in appropriations, simply a transfer of staff from one body to another. I think in my opinion this would be a first step in enhancing the in-house analytical capability of the Bureau of Justice Statistics.

Mr. Chairman, I am very thankful for the opportunity to testify and I would certainly be pleased to respond to any questions that you or the staff may have.

Mr. HIGHTOWER. Thank you, Mr. Yeager. We appreciate your testimony and the different points of view that you bring, and the issues you raise. We will insert your prepared statement at this point in the record.

[The prepared statement follows:]

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Prepared Remarks

of

MATTHEW G. YEAGER
Department of Forensic Science
George Washington University

on the

Fiscal Year 1981 Appropriation

for

"The Bureau of Justice Statistics"

Subcommittee on
State, Justice, Commerce, and Judiciary
Committee on Appropriations
House of Representatives

April 1980

Thank you, Mr. Chairman, for the opportunity to submit prepared remarks on the Fiscal Year 1981 appropriation for the Bureau of Justice Statistics. I am Matthew G. Yeager, Assistant Professorial Lecturer in Forensic Science at George Washington University. As your subcommittee staff knows, I was directly involved in the legislation creating the Bureau of Justice Statistics, and therefore I would like to identify some important issues that the subcommittee ought to address with respect to the Bureau's proposed budget.

Mr. Chairman, in 1967, the President's Crime Commission made the following observation with respect to criminal justice statistics:

> The United States is today, in the era of high speed computer, trying to keep track of crime and criminals with a system that was less than adequate in the days of the horse and buggy.
>
> [1]

Unfortunately, the availability of statistical data on crime in the United States is still shockingly incomplete. A recent survey indicated that the U.S. produces the following statistics:

Victimization

published annually since 1973 by LEAA, the National Crime Survey is the most extensive survey of its kind in the world; it is based on a national sample of about 66,000 households.

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[1] President's Commission on Law Enforcement and Administration of Justice, TASK FORCE REPORT: CRIME AND ITS IMPACT -- AN ASSESSMENT (Washington, D.C.: U.S. Gov't Printing Office, 1967), p. 123.

Crimes Reported to the Police

Compiled by the FBI since 1933, the Uniform Crime Reports (UCR) is the most heavily used and frequently cited document in criminal justice.

Arrests

National arrest figures are part of the UCR, but the only truly nationwide table contains only estimates of arrests for index and non-index crimes, with no other breakdowns -- such as for race, sex, or age.

The Cost of Crime

No regular data; an estimate for 1976 was published by the Joint Economic Committee of Congress.

The Cost of Criminal Justice

Annual, detailed statistics available since 1967, but data not broken down by race or sex of employees.

Adult Court Statistics

The United States is almost the only developed country that publishes no national court statistics of any kind.

White Collar Crime

The data are scattered among a large number of agencies; they have never been collected, analyzed, or published.

Juvenile Court Statistics

Published annually, but only the number of juveniles processed. There are no state data.

Juvenile Court Dispositions

No data available.

Jail Statistics

No regular data published other than decennial censuses; no current data available. There was an LEAA-sponsored census in 1972.

Prison Statistics

Published annually, giving total admissions and releases during the year and total inmates present on December 31. No information on sentence length, duration of stay, or characteristics of inmates. Offense, sentence length, and selected characteristics of state inmates only were covered once in a 1974 LEAA census.

2

The FY 1981 appropriation request for the Bureau of Justice Statistics amounts to roughly $ 20.5 million dollars for programs, an approximate increase of $ 5.5 million over the FY 1980 appropriation. No staff increases are included, and the major increase will permit the continuation and redesign of the well-respected National Crime Victimization Survey.

Despite this small increase, a number of serious policy decisions remain unresolved, which can best be illustrated by referring to the accompanying table below. This table shows the final FY 1980 program allocations for the Bureau and compares it with working figures currently being considered. I would like to call the subcommittee's attention to

2 Eugene Doleschal, "Sources of Basic Criminal Justice Statistics," CRIMINAL JUSTICE ABSTRACTS 11(March 1979): 122-147 No.1.

FINAL FY '80 BJS SUBPROGRAM ALLOCATIONS
AND FY '81 WORKING FIGURES (in thousands)

Program Title	FY '80 [3]	FY '81
*PROMIS (Prosecutors Info. Sys)	$ 3,000	$ -0
*Enforcement Systems	700	-0
*Corrections Systems	100	-0
*Court/Prosecutor Systems	400	-0
*Program Support & Eval.	800	-0
Victimization	6,288	9,069
Corrections Statistics	2,820	2,533
Courts Statistics	-0	1,139
Juvenile Justice Statistics	-0	-0
CJ Employment & Expenditure Data	1,364	1,323
Utilization of CJ Statistics	547	898
State/Local Crime Reporting Sys.	150	485
Federal Transaction Statistics	50	415
Publication Support	424	515
Comprehensive Data Systems	4,562	2,291
*State Corrections Systems	650	-0
*State Judicial Systems	800	-0
Privacy and Security	525	975
Computer/White Collar Crime	425	-0
Reserve	282	?
	$23,887	$19,643

those programs identified by an asterisk (*). These are "system improvement" programs, and consist of such things as CAPTIS (Computer-Assisted Prison Transportation Index), a telecommunications system which provides for a prisoner transportation index, and PROMIS (Prosecutor's Management Information System). As you can see from the tentative figures for FY '81, no funds are provided for system improvements. This is because the authorization language for the Bureau of Justice Statistics (P.L. 96-157, 93 STAT. 1176-1179) does not authorize the Bureau to develop what are essentially management, not statistical,

[3] FY '80 figures include both the actual appropriation ($15 million) and reverted funds from prior and current years. Thus, about $4 million in carryover funds were used to save the National Crime Survey in FY 1980 because the actual appropriation was insufficient.

information systems. Yet, if you inquire of the Justice Department, they will indicate that several million dollars (the exact figures are unknown) in the FY '81 request have been tentatively allocated to Systems Improvements. In effect, the Justice Department is apparently reluctant to admit that these programs are being conducted without legal authorization.

In FY '80, Systems Improvements amounted to about $6.4 million and 11 positions. I strongly urge the Subcommitte to disallow the systems allocation, and thereby permit this money to be reallocated to other statistical programs within the Bureau of Justice Statistics.

A second issue concerns the serious neglect which several statistical data systems have received. (The Bureau has done literally nothing with respect to federal criminal justice statistics, particularly courts and corrections.) With respect to white collar crime, it has only allocated $ 425,000 for these type of statistics, notwithstanding estimates which show that white collar crime drawfs street crime by a ratio of at least $44 billion to $4 billion. [4] Very little money has been apportioned to methodological research; hardly any work is being conducted on juvenile justice or jail statistics, and no studies are being performed on the validity or reliability of the FBI's Uniform Crime Reports. For these reasons, I strongly recommend that the Subcommittee increase the Bureau's appropriation by $4.5 million, thereby bringing its total appropriation to $25 million for FY 1981.

Finally, I would like to draw the subcommittee's attention to a section in the House Report (H. Rep. 96-163) concerning the Bureau of

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4 Hearings on "White Collar Crime" before the Subcommitte on Crime, Committee on the Judiciary, House of Representatives, 95th Cong., Second Session, June 21, 1978, p.1.

Justice Statistics:

> ...there is little analytical capability for general purpose statistics in LEAA or elsewhere in the Department of Justice. Although the National Institute for Law Enforcement and Criminal Justice of LEAA has human resources, little has been done by the Institute to exploit the data collected by NCJISS /now BJS/. NCJISS itself has been provided no resources by the agency which would permit it to assume an in-house analytical function, although there has been an increase in the level of funding for out-of-house analytical activities.

Mr. Chairman, I know there is a reluctance on the part of this Congress to increase staff positions, and of course, I am aware of the President's freeze on new hiring. Nevertheless, within the U.S. Bureau of the Census, there exists a Crime Statistics Analysis Staff (Office of Demographic Analysis) that analyzes National Crime Survey data as well as the National Prisoner Statistics. This unit is entirely funded by the Bureau of Justice Statistics via a contract with the Commerce Department. Since both the Justice and Commerce Departments fall under the jurisdiction of this subcommittee, I would strongly recommend that the entire Crime Statistics Analysis staff be transferred to the Bureau of Justice Statistics. In my opinion, this would be a first step in providing the Bureau with its own analytical capability.

Last, the President has yet to appoint a Director for the Bureau. I would hope that the subcommittee might address this issue in its Report to accompany the FY 1981 appropriation.

TUESDAY, APRIL 15, 1980.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

WITNESSES

CLARENCE PAUTZKE, ASSISTANT TO EXECUTIVE DIRECTOR, PACIFIC MARINE FISHERIES COMMISSION
IRWIN M. ALPERIN, EXECUTIVE DIRECTOR, ATLANTIC STATES MARINE FISHERIES COMMISSION
CHARLES H. LYLES, EXECUTIVE DIRECTOR, GULF STATES MARINE FISHERIES COMMISSION

Mr. HIGHTOWER. We are happy to have prepared statements by Dr. John P. Harville, Executive Director of the Pacific Marine Fisheries Commission; Mr. Irwin M. Alperin, Executive Director, Atlantic States Marine Fisheries Commission; and Mr. Charles H. Lyles, Executive Director, Gulf States Marine Fisheries Commission.

We are happy to have you three gentlemen with us today.

We would be glad to hear from you and we will insert your statement in the record.

[The prepared statements follow; additional exhibits submitted with the statements are on file with the Committee:]

MEMBER STATES
ALASKA
CALIFORNIA
IDAHO
OREGON
WASHINGTON

EXECUTIVE DIRECTOR
JOHN P. HARVILLE
TREASURER
G. L. FISHER

PACIFIC MARINE FISHERIES COMMISSION

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March 24, 1980

Honorable Neal Smith, Acting Chairman
Subcommittee on State, Justice,
Commerce, and the Judiciary
House Committee on Appropriations
Washington, D.C. 20515

RE: Augmented Appropriations for the
Commercial Fisheries Research and
Development Act of 1964 (P.L. 88-309)

Joint Statement of

John P. Harville, Executive Director
Pacific Marine Fisheries Commission

Irwin M. Alperin, Executive Director
Atlantic States Marine Fisheries Commission

Charles H. Lyles, Executive Director
Gulf States Marine Fisheries Commission

Mr. Chairman, the three interstate marine fisheries commissions, representing 25 coastal States, urge you to increase appropriations for Section 4(a) of the Commercial Fisheries Research and Development Act of 1964 (P.L. 88-309, as amended) to $10 million for FY 1981. This popular Congressional program benefits all States by maintaining and upgrading our State fisheries research and management capabilities.

The interstate marine fisheries commissions believe an increase in Section 4(a) funds is warranted by the major problems confronting our States in the face of rapidly expanding commercial fisheries. These problems include: the decline in purchasing power of these research funds due to progressive inflation; insufficient appropriations to mitigate this erosion of purchasing power; increased demand for research and management

information from our State resource agencies to fulfill provisions of Federal mandates such as the Fisheries Conservation and Management Act of 1976 (FCMA); and continued expansion of our commercial fisheries. We wish to elaborate further on these problems.

DECLINE IN PURCHASING POWER DUE TO INFLATION AND INSUFFICIENT APPROPRIATIONS

Funds appropriated for Section 4(a) projects remained constant at $3.8 million between 1970 and 1978. By 1978 the purchasing power of these funds was reduced by inflation to 60% of their 1970 value. The $1.2 million increase in appropriation in 1979, while a welcome change from the level funding years (Table 1), provided only temporary relief from the continuing decline in purchasing power (Figure 1).

In 1980, we project that at the present level of funding, P.L. 88-309 funds will buy only 62% of their 1970 value. By 1983, with no further increase in appropriations, these funds will be worth only 43%. This progressive attrition in purchasing power has acutely reduced all program capabilities and, unless compensated for, will continue to limit productive State research on commercial fisheries at a time when increased efforts are urgently needed. Therefore, we are requesting $10 million for FY 1981, and plan to seek progressive increases to $12 million in FY 1982, and $15 million in FY 1983.

INCREASED DEMAND FOR RESEARCH INFORMATION

Much commercial fisheries research is conducted by State resource agencies using State-Federal matching funds through P.L. 88-309. These researches provide data on stock abundance, distribution, age structure, growth, mortality, recruitment, migration and yield for species harvested in the Territorial Sea and the Fishery Conservation Zone (3-200 miles). These data are the basis for management of our commercial fisheries as embodied in the fishery plans developed by the Regional Councils under FCMA.

The demand for this information increases steadily. Ten fishery management plans have been implemented as of December 1979 (Table 2). An additional 66 plans are being considered by the eight Regional Councils.

Management measures in these plans are dynamic and require continually updated resource assessments and related research if the nation is to obtain the highest benefits from its resources. Additional funds are needed to encourage such projects as management-related research, fishery monitoring, and data collection and analysis. Specific projects requiring additional funding are listed by State in Appendix 1. The increased funds required by 29 States and Puerto Rico and the Virgin Islands exceed $10 million dollars for FY 1981 (Table 3).

CONTINUED EXPANSION OF COMMERCIAL FISHERIES

Our commercial fisheries harvest, both in weight and value, is expanding rapidly (Figure 2). President Carter, in his State of the Union Message in January, commented on his proposed fishery development policy "...that recognizes both the importance of the U.S. commercial fishing industry to the nation's economy and that fish is an important food source."

Congressional incentives also are being provided for further expansion of commercial fisheries. The proposed National Fishery Development Act, and other bills promoting U.S. fisheries development, will place increasing demands on the States to provide resource assessment information and to conduct management-related research now supported by Section 4(a) funds. Augmentation of appropriations for P.L. 88-309 will permit the States to continue developing these kinds of information.

CONGRESSIONAL ACTION REQUIRED

In our testimony, we have stressed the need for increased funding of Section 4(a) of P.L. 88-309. We have emphasized four major problem areas:

(1) Decline in purchasing power of Section 4(a) research funds under impact of progressive inflation;

(2) Insufficient appropriation to mitigate that erosion of research funds;

(3) Increased demands for research information from State resource agencies because of Federal mandates such as FCMA; and

(4) Continued expansion of commercial fisheries encouraged by legislated incentives and Administration support, which will require even greater State-Federal involvement in the future.

We respectfully urge Congress to appropriate $10 million for Section 4(a) for FY 1981. Further, Sections 4(b) and 4(c) should be funded at $3 million and $500,000, respectively, in FY 1981. Specific projects, by State, that require support from P.L. 88-309 Section 4(a) funds are compiled in Appendix 1.

Your constituency has strongly supported this position. Your State fishery administrators unanimously passed a supporting resolution on January 29-31, 1980 in Alexandria, Virginia, at the State Fish and Wildlife Directors/NOAA-NMFS Conference on State and Federal Roles, Responsibilities, and Interactions in the Management of Interjurisdictional Resources. Similar resolutions have been adopted by the International Association of Fish and Game Agencies, and the Atlantic and Gulf States Marine Fisheries Commissions. The fishing industry also has endorsed our position. Copies of pertinent letters and resolutions may be found in Appendix 2.

Should you need additional information, please call on us.

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March 24, 1980

Honorable Neal Smith, Acting Chairman
Subcommittee on State, Justice,
Commerce, and the Judiciary
House Committee on Appropriations
Washington, D.C. 20515

Augmented Appropriation for the
Anadromous Fish Conservation Act
of 1965 (P.L. 89-304, as amended)

Statement of:

John P. Harville, Executive Director
Pacific Marine Fisheries Commission

Irwin M. Alperin, Executive Director
Atlantic States Marine Fisheries Commission

Charles H. Lyles, Executive Director
Gulf States Marine Fisheries Commission

Mr. Chairman, the three interstate marine fisheries commissions, representing 25 coastal states, urge you to increase NMFS/NOAA appropriations for the Anadromous Fish Conservation Act of 1965 (P.L. 89-304, as amended) to $4.0 million for FY 1981.

Our request for this $2 million increase in appropriation can be supported for the following reasons: the decline in purchasing power of funds appropriated for this Act; insufficient appropriations to compensate for inflation; increasing demand for information from State resource agencies to fulfill provisions of Federal legislative mandates such as the Fishery Conservation and Management Act of 1965 judicial directives(e.g., Indian fishing rights issue); and the continuing need to conduct programs which support regional conservation, management, and enhancement of anadromous fish resources.

PURCHASING POWER CONTINUES DECLINING; APPROPRIATIONS ARE INSUFFICIENT.
P.L. 89-304 appropriations have not kept pace with authorizations. From 1967 to 1979, authorizations increased from $5 million to $20 million (Fig. 1). Authorizations of $11 million, $13 million, and $15 million for FY 1980-1982 were signed into law by the President on November 16, 1979.

Appropriations have remained at $2 million since 1971. By 1979, these funds had only 55% of the 1971 purchasing power (Fig. 1). Last year, Congress recognized these impacts of inflation. Responding to arguments of the three interstate marine fisheries Commissions, the Senate Appropriations Committee recommended the transfer of $1.3 million of Saltonstall-Kennedy funds to Anadromous Fish Conservation Act programs to compensate for inflation over 8 years of level funding.

Despite these good intentions, this $1.3 million was not added to the NMFS base budget for P.L. 89-304 programs. Instead, a one-time allocation was made to NMFS's Northwest and Alaska Fisheries Center for distribution to the Pacific States and other entities for short-term salmonid research in the Pacific Northwest.

Therefore, P.L. 89-304 appropriations remain at $2 million. If these funds are not increased, their purchasing power will be only 43% of their 1971 value. This decline is critical in the face of increased demands for research and management information.

INCREASING DEMAND FOR RESEARCH AND MANAGEMENT INFORMATION.
Much anadromous fisheries research is conducted by State resource agencies using P.L. 89-304 matching funds. This research provides data on stock abundance, origin, growth rates, natural and fishing mortality rates, recruitment, and enhancement of anadromous fish resources. Pacific Northwest salmonid projects funded last year with the $1.3 million Saltonstall-Kennedy funds are examples of the types of programs that generate the above data. NMFS reviewed over 40 proposals in terms of four interrelated research and management areas: early life histories and ecology, hatchery practices and fish disease studies, and data management systems and coordination. From the limited funds available only sixteen projects could be funded. These projects address critical anadromous fish management problems in Puget Sound and the Columbia River as a result of Indian fishing rights issues, salmon interception problems

associated with high seas United States and Canadian troll fisheries and other important conservation and management needs (Table 1).

While 12 of these approved projects will be completed in one year, four were given first-year funding only and will require additional funds for completion. The remaining 24 proposals, all of high priority, remain unfunded. These proposals and others which respond to the increased management and research burdens imposed on the States require funding through cooperative State-Federal programs such as P.L. 89-304 (Appendix 1).

CONTINUED SUPPORT FOR REGIONAL CONSERVATION, MANAGEMENT, AND ENHANCEMENT OF ANADROMOUS FISH RESOURCES.

Because of wide-ranging and interjurisdictional migratory patterns of anadromous fish, their management requires close cooperation by adjacent jurisdictions. For example, the vulnerability of Pacific salmon to fishing pressure clearly indicates that management controls implemented in one jurisdiction are valueless unless similar controls are implemented in the other jurisdictions. Through P.L. 89-304, cooperative State-Federal programs of research and management, fish propagation and enhancement, enforcement, and habitat protection have been implemented. Shared funding helps assure that national, regional, and State interests are properly served. Congress recognized this by authorizing in 1979 an increase in the amount each State could receive under P.L. 89-304 from $1 million to $1.25 million. This permits those States at or near the $1 million limit to maintain continuity in developing urgent, cooperative projects formerly ruled out by the limitation.

NEED FOR CONGRESSIONAL ACTION.

We have emphasized several major arguments for increased funding for P.L. 89-304, as follows:

1. Decline in purchasing power of P.L. 89-304 funds due to inflation and insufficient appropriations to compensate;
2. Increased demand for anadromous fish research and management information from State resource agencies to meet requirements of Federal mandates; and
3. Need to support regional multi-agency conservation, management, and enhancement of anadromous fish resources.

The Anadromous Fish Conservation Act of 1965 was intended by the Congress to be a major funding source for research in all States having anadromous fish resources. While we have emphasized Pacific Coast salmonid programs in our statement, P.L. 89-304 also has supported research on shad, river herrings, striped bass, walleye pike, shortnose and Atlantic sturgeon in various Atlantic, Gulf, and Great Lakes States.

Special allocations in 1979 of $1.3 million for Pacific Northwest salmon studies and $1.0 million in 1980 to the Fish and Wildlife Service for an emergency striped bass study have provided much needed infusions of research monies into the States.

However, both of these special appropriations are short term, and will not provide for the continually increasing research needs of our States in responding to federal mandates such as FCMA. Therefore, the three interstate marine fisheries commissions respectfully urge that the Congress approve a $2 million increase in funding for NOAA/NMFS for a total FY 1981 appropriation of $4 million.

The attached Appendix provides further information on new or expanded projects which will be undertaken jointly by the States and the Federal government if additional funds are made available.

Please call upon us if we can provide further information.

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Mr. HIGHTOWER. We would be happy for you to proceed as you choose at this time.

Mr. ALPERIN. Thank you, Mr. Chairman.

Dr. Pautzke is substituting for John Harville who could not make it. Dr. Pautzke is Dr. Harville's assistant and he will start with just a brief summary of our formal statement.

Mr. HIGHTOWER.We are happy to have you.

STATEMENT OF DR. PAUTZKE

Dr. PAUTZKE. Good morning, Mr. Chairman. I am Clarence Pautzke, Pacific Marine Fisheries Commission, and though I formally represent Alaska, Washington, Oregon, California and Idaho, my brief statement this morning will speak for all three interstate marine fisheries commissions.

Mr. Chairman, the three interstate marine fisheries commissions, representing 25 coastal states, request you to increase appropriations for two valuable federal grant-in-aid programs, the Commercial Fisheries Research and Development Act, Public Law 88–309, and the Anadromous Fish Conservation Act, Public Law 89–304.

These programs support state research, enhancement and conservation of fisheries resources. For fiscal year 1981 we urge you to appropriate $10 million for Section 4(a) of Public Law 88–309, and $4 million for the NOAA–NMFS portion of the Anadromous Fish Conservation Act.

Why do we request higher appropriations in these times of budget balancing?

Mr. Hightower, our state research budgets began tightening long ago. Funds have grown progressively leaner every year.

In brief, our problem is four-fold:

Appropriations for these Acts have not been increased regularly over the past ten years; inflation has eroded the purchasing power of these funds; federal mandates have increased demands for research, for example, FCMA, considerably; and commercial and recreational fishing pressure continues to increase particularly due to legislated incentives and the Administration's development programs.

The Commercial Fisheries Research and Development Act amply illustrates these problems. Section 4(a) research was level funded at $3.8 million from 1970 to 1978 and then recently increased by your committee to $5.0 million. The purchasing power of these appropriations has been eroded by inflation and now is only 62 percent of its 1970 value. Accordingly, program capabilities have been reduced acutely.

Both grant-in-aid programs are critical to effective management and conservation of our nation's fishery resources. The Honorable John Breaux opened hearings before the House Subcommittee on Fisheries and Wildlife on February 11, 1980, stating with regard to Public Law 88–309:

> With the enactment of the Fishery Conservation and Management Act of 1976, the burden placed upon the States to provide information has been enormous. This data is essential in the development of regional fishery management plans by the individual councils. Consequently, this Federal assistance program has become even more important than when it was originally enacted in 1964.

The States do not have the resources available to become involved in research and development projects without Federal assistance, and the Federal Government receives significant benefits from the projects which are being accomplished by the individual States.

Similarly, the Honorable John Murphy stated at the April 1st House Appropriations Subcommittee hearings that:

The Commercial Fisheries Research and Development Act has been one of the most popular Federal aid acts ever enacted into law by Congress and, we believe, one of the most successful in carrying out the purposes for which it was intended. Its benefits have extended far beyond the States to assist the National Marine Fisheries Service, the regional fishery management councils, private industry and the American public.

Mr. Chairman, nationwide there are now over 240 commercial fisheries research projects requiring over $10 million awaiting funding. There are 13 anadromous fish projects totalling over $2.7 million awaiting funding on the Pacific Coast. Projects having high priority on the Pacific Coast deal with fish stock definition, assessment, and distribution to support fishery management plans.

Momentarily, my colleagues from the Atlantic and Gulf Commissions will summarize programs on their coasts. Detailed projects needs have been submitted to you in our joint statement of March 24, 1980.

These grant-in-aid programs have produced sound scientific research and are prerequisites to effective resource management and conservation. Moreover, both grant-in-aid programs require State matching funds and therefore are cost effective.

Mr. Hightower, we need your support. We request you to increase appropriations for fiscal year 1981 to $10 million for the Commercial Fisheries Research and Development Act and to $4 million for the Anadromous Fish Conservation Act. This increased funding will help meet our urgent research needs and mitigate attrition of program capabilities due to past level funding and rampant inflation.

We hope you will agree that it is in the best interests of the United States to make a considered investment now in the future benefits to be realized from these renewable resources.

Mr. Chairman, that concludes my statement. I request that it be entered in the record along with our March 24th joint statement.

I thank you for the opportunity to appear before you and will be happy to answer any questions you may have.

Mr. HIGHTOWER. Thank you, sir. We will be happy to hear from the other gentleman at this time.

STATEMENT OF MR. LYLES

Mr. LYLES. Mr. Chairman and members of the committee and staff, thank you for the opportunity to make a brief statement regarding Public Law 88-309, the appropriation for the Commercial Fisheries Research and Development Act, as amended.

My name is Charles H. Lyles. I represent the Gulf States Marine Fisheries Commission. The Gulf States strongly support a funding level of $10 million which, while it will not bring the purchasing power up to the 1964 level, will go a long way to alleviate the present crunch.

I do not wish to belabor the issue, but I would like to point out that this program has almost unprecedented support from all segments of the fishing community. Sport and commercial alike have hailed this program as being the mainstay of fishery research and management at a State level.

The extensive written testimony which we have provided this committee contains statements of support for the program. The inland areas have supported the program, as has the marine districts. I ask only that you examine each of these statements. This would not have been possible unless these monies were being well spent and in the best interest of the whole fishing community.

As a representative of the five Gulf States, I earnestly request that funding be increased to $10 million for fiscal year 1981. Your consideration will be greatly appreciated.

I shall be happy to answer any questions.

Thank you, Mr. Chairman, for the opportunity to say a word.

Mr. HIGHTOWER. Thank you, Mr. Lyles.

Mr. Alperin?

STATEMENT OF MR. ALPERIN

Mr. ALPERIN. Mr. Chairman, members of the committee, I am Irwin Alperin and I represent the interests of the 15 member States of the Atlantic States Fisheries Commission in this joint request for your consideration of an increase in appropriations for Section 4(a) of the Commercial Fisheries Research and Development Act.

By unanimous resolution of our commission members, we strongly support increasing the Federal share of these grants to $10 million for the reasons contained in our formal statement and so succinctly summarized by Dr. Pautzke.

Mr. Hightower, when Merchant Marine and Fisheries Committee Chairman, John Murphy, had reference in his April 1st statement before this subcommittee to a $6 million backlog of unfunded Public Law 88-309 projects in the Atlantic and Southeast regions alone, he suggested that we, representatives of the interstate compact fisheries commissions, would present these unfunded projects to you. You will find these documented by State and region in Appendix I of our formal testimony. Included there is a backlog of about $3.8 million of unfunded projects of ten Atlantic Coast States that remain unfunded since 1977-78. We brought these to your attention, Mr. Chairman, when we appeared before your subcommittee in 1978. They have remained unimplemented for lack of appropriated funds.

Earlier this spring, when testifying before the Subcommittee on Fisheries and Wildlife Conservation and the Environment on reauthorization of the Act, Chairman John Breaux requested that we update the unfunded and underfunded requests of States. I canvassed our fifteen Atlantic Coast States and ten responded in time to include their needs in our appendix.

We now have an additional backlog of unfunded projects that need more than $3 million. Upon examination, I find that among these proposals are those that would contribute directly to the development of management plans for 14 of the 30 fisheries that are presently contemplated by the three regional fishery manage-

ment councils with jurisdiction spanning the Atlantic Fishery Conservation Zone. Most States would make their contribution by providing resource and stock assessments that are not obtainable excepting through States' efforts. Secondly, they would all participate in upgrading the collection and analysis of catch data and other baseline statistics which are essential to the proper development of management plans for Fishery Conservation Zones and coastal fisheries and the equitable allocation of these marine fisheries resources to the users.

Thank you for this opportunity.

Mr. HIGHTOWER. Thank you, Mr. Alperin.

Are there any questions from the other members?

Gentlemen, we appreciate very much the benefit of your testimony.

TUESDAY, APRIL 15, 1980.

SMALL BUSINESS ADMINISTRATION

WITNESSES

EVELYN BORGENICHT, PRESIDENT AND OWNER, EMPIRE SALES CO., NEW YORK CITY

SUSAN HAGER, PARTNER, HAGER, SHARP & ABRAMSON, WASHINGTON, D.C., REPRESENTING THE NATIONAL ASSOCIATION OF WOMEN BUSINESS OWNERS

Mr. HIGHTOWER. Next we have Mrs. Evelyn Borgenicht.

STATEMENT OF MRS. BORGENICHT

Mrs. BORGENICHT. Good morning.

I welcome this opportunity to support the fiscal year 1980 and fiscal year 1981 budgets for the Office of Women's Business Enterprise.

My name is Evelyn Borgenicht. I am a widow who has run my husband's small business since he died in 1978. I became president and owner of Empire Sales Company, a New York City firm which employs 40 people. My husband started the company in 1930, and it has been in existence since then, except for two years when he was in the United States Army. We are wholesalers and dealers in clothing and furnishings for men, women and children.

The decision to maintain Empire Sales was difficult. The economy of the country has to be considered as well as my lack of experience as an executive in the business world. But I wanted to be self-supporting and I had a responsibility to the employees and knew that many of them had worked for the company for over fifteen years and would have difficulty finding employment. Also, I considered my emotional reaction to closing a business my husband had nurtured. Death is difficult to bear, and this seemed to be a way to soften the loss.

But the problems for widows who take such a route are many and we need help. I was not, and am not, at all sure of myself and my decisions and can use all the advice I can get. A surprising stumbling block was my staff. They had known me as an adjunct to my husband—I would assist in personnel work and compile catalogues, etc. But when I became boss, they were suspicious and confused. Because I am a woman, they did not bring problems to me until they reached crisis stage. One man said, "I was taught not to get angry with a woman—so I cannot react to your decisions as I would have to Mr. Borgenicht's decisions."

A competitor went to our accounts and to some of our suppliers as well and said, "Empire Sales has been taken over by an old woman who doesn't know anything about business and she'll run it to the ground."

I tried to get assistance from government programs not focused on women and got short shrift. By chance I heard of the White House Conference on Small Business which I attended as an observer. There I heard of the office of Women's Business Enterprise. It was a relief to know that there was a special bureau—a facility which was concerned with the special problems of women in what is commonly referred to as "a man's world." They assisted me to find solutions.

For instance, Empire Sales had a contract with GSA for ten years. This contract has not been issued by them for two years. The timing of my husband's death and the decision by GSA not to reissue the contract was approximately the same and I did not know where to turn for help. It wasn't until I found the Women's Business Enterprise office that I was given a direction to follow. They sent me to the appropriate people—names which would have been difficult for me to find by myself.

They also encouraged me to discuss the problems which face all small businesses. I learned through them that there was a federal directive to give consideration to women-owned businesses. Obviously this part of the Small Business Administration needs more visibility and funding to reach out to more women who are in my position.

In September 1979, the New York Times featured me in a syndicated article on widows who took over their husbands' businesses. I received letters from Phoenix, Chicago, Berkeley and New York, all from widows, many of whom wished they had been encouraged to do what I had done.

One of my friends regrets having closed her husband's business—she turned so many employees out. The impact of such closing on any community in these days must be considered very seriously.

Widows have a special problem, and we all recognize that there are many widows in our country. Frequently their financial support ends with the death of their husband. Many of them are advanced in age, or they are heads of households with children. If they have the opportunity to be self-supporting, they should be assisted to do so. The Women's Business Enterprise office is a valuable asset for this group. Most of us have not been educated in business. Many, like me, have spent a good part of our lives raising families.

The knowledge that the Federal government is concerned with the small but growing number of women business owners makes me more confident. My hope is that with the backing of the government, widows can make a contribution to our economy and help to stabilize the community in which they live.

Thank you for the opportunity to appear.

Mr. HIGHTOWER. Mrs. Borgenicht, you are the third woman owner of business who has been before this subcommittee to testify. Each of the testimonies has been excellent, and yours is certainly in that category.

We appreciate your taking time to come down here from New York and give us the benefit of your experience. I was not aware of the important work this group is doing until we began hearing this testimony.

I can't help but be impressed with your determination and resolve to succeed when you heard others were saying that your husband's business had been taken over by an old woman. I think you were properly motivated at that point.

Mrs. BORGENICHT. Thank you very much.

Mr. HIGHTOWER. Thank you very much.

Mr. Smith, do you have any questions?

Mr. SMITH. No, Mr. Hightower.

Mr. HIGHTOWER. Ms. Susan Hager, we will be happy to hear from you at this time.

STATEMENT OF MS. HAGER

Ms. HAGER. Thank you. Good morning.

Mr. Chairman, members, my name is Susan Hager. I am the President of Hager, Sharp and Abramson, Inc., a program development and public relations firm located here in Washington, and I am really delighted today to speak on behalf of the National Association of Women Business Owners. We really welcome the opportunity to submit a statement in support of the fiscal year 1980 and 1981 budget for the Small Business Administration's proposed Women's Business Enterprise Program.

The National Association of Women Business Owners is a nonprofit membership organization. It was formed in the early seventies as a local group of women business owners in Washington, D. C. Today the constituency of the National Association of Women Business Owners is nationwide with members in every state and with local chapters in 14 states, including Texas, Illinois, Massachusetts, Minnesota, California, Pennsylvania, Maryland, Virginia, Michigan, North Carolina, Florida, Missouri and the District of Columbia. We are, of course, Congressman Smith, working to start one in Iowa.

The members of the Association include women engaging in almost every entrepreneurial endeavor. While most of our members are in fact women that own or run service operations or retail operations, we do in fact have members in manufacturing, construction, real estate development, and agribusiness. Because we have a large and diverse membership population, we feel we have a fairly strong base from which to comment on the need for such a program on women's business enterprise.

Women entrepreneurs are a significant part of our nation's economy. In 1978, according to the Department of Labor's Bureau of Labor Statistics, one employed woman out of every 20, one out of 20, was working in her own business or profession. While most of these were in retail trade or personal services, nearly five percent of the self-employed women were in mining, construction and manufacturing. The 1980 figure is certainly larger, as was noted in the report of the President's Interagency Task Force on Women's Business Enterprise. They said that the number of self-employed women increased by nearly 25 percent between 1971 and 1977, or about three times the rate of self-employed men.

The report also stated, and I would like to quote:

> After months of research and evaluation, the Task Force has concluded that if starting a new business is considered difficult, it is considerably more difficult for a woman. A systemic history of overt discrimination starts her on a course in life that steers her from a traditional "man's province," prevents her from training for careers that lead to entrepreneurship, diminishes her ambitions and aspirations for this career, and then places obstacles in her path as she tries to pursue it. For minority women, these obstacles are even greater because of racism and cultural differences.

Over the years, NAWBO has worked actively to address the needs of women business owners. Our experience, the consistent message from the constituency and from women entrepreneurs is that the need for technical and management assistance is critical and that access, not a guarantee, but access to credit, is a must.

I think everybody you talk to is going to tell you that the lack of business management experience and the financial barriers are really the greatest two barriers. From the earliest years women have not been expected to have good business sense. We have not been encouraged to go to business school. In fact, we have only recently been admitted to graduate schools of business, and women are just like men when it comes to finance.

We need capital to start and because of the difficulty in obtaining start-up capital, we are frequently limited in the kinds of businesses we go into. The same goes for expansion capital. The growth rate for women is certainly way far behind that of men because the expansion capital and the lack of cash flow availability or access for women really limits the type of up-front things that women can do or the kinds of institutions that women-owned businesses can deal with, like the Federal government or anyone else who pays late. Basically, I think probably everyone that you are going to hear from is going to tell you that there is a tremendous need, and we agree with that and we think that this proposed program on women's business enterprise really addresses some of those major needs.

We think with the budget of $2.5 million in fiscal year 1980 and $13.6 million in fiscal year 1981, that this money would provide a critical program that would begin to fulfill some of the clearly identified needs.

The program goals are basic and rely on the cooperation between the private and public sectors to develop effective business management skills in significant numbers of potentially successful women business owners, as well as to improve the business environment for women-owned businesses.

Implementation of the program would require an office of women's enterprise within SBA and it would require the reorganization of the Interagency Committee on Women's Business Enterprise to be an advisory to the office.

Probably the most important aspect of the program in our mind is the special training and counselling centers which will be set up and would be set up in, say, ten to twelve major cities. These centers would be geared for the specific management and technical needs of female entrepreneurs. We see these centers as an expansion and not as a duplication or competition for the small business development centers. I don't know if that is an issue in anybody's mind, but that is something that we think could go hand in hand very nicely. The training centers would be located in urban areas where there is the highest population of women entrepreneurs and, furthermore, the private sector would contribute significantly to the program's accessibility to women and to the acceptability in the business community itself.

Perhaps the most important point that we would like to make, particularly because this subcommittee is concerned with balancing the budget and all those things that must be very difficult at this point, is, we think the program is cost effective and within five years the returns could certainly more than offset the entire cost of the program in terms of increased personal income, tax revenues, and the jobs created by firms assisted by the program.

It is a program that would contribute substantially to the growth and stability of jobs, creating small businesses that heretofore really have been left out of the system and neglected.

In addition, as business people, we particularly support a piece of the program that calls for significant utilization of the private sector for basic contracting and service provision. Overall, we think it is a pretty sound means to operate and evaluate such a program.

In conclusion, I would just like to say that women business owners are a growing, activist constituency. The National Association of Women Business Owners is greatly concerned that the provisions of the Interagency Committee on Women's Business Enterprise and the President's Executive Order 12138 become a reality.

There is incredible need for management and technical assistance and access to credit on the part of women and we think that the proposed program is the first to address those needs and is cost effective. The National Association of Women Business Owners actively supports and really urges you to pass this budget appropriation. We thank you for the opportunity to present our views.

Mr. HIGHTOWER. Mr. Smith?

Mr. SMITH. You mentioned the SBDCs. Do you agree that there is no way that you can possibly replace those kinds of resources? Those are the main resources. Would you complement those resources?

Ms. HAGER. Yes. We do not see taking money away from that budget, robbing Peter to pay Paul. It is all a total thing of management assistance.

Mr. SMITH. Isn't the SBDC program terribly important, especially to women?

Ms. HAGER. They haven't been so far. We hope they will be.

Mr. SMITH. The evidence we have had is that they have been very helpful to women in business. We have had several female witnesses before this committee tell us that they wouldn't have survived without the SBDC program.

Ms. HAGER. I think they are a very important piece of it. We have gotten mixed feedback from our membership. That is the case with anything.

Mr. SMITH. Of course, they aren't available everywhere, but where they are available, they are very helpful.

Ms. HAGER. There are several very good programs out there.

Mr. SMITH. That is all I have to say for now.

Mr. HIGHTOWER. Thank you very much, Ms. Hager, for your testimony.

[Ms. Hager's prepared statement follows:]

NATIONAL ASSOCIATION OF WOMEN BUSINESS OWNERS
2000 P St., N.W. Washington, D.C. 20036
(202) 338-8966

April 15, 1980

STATEMENT OF SUSAN HAGER
FOUNDER AND FORMER PRESIDENT OF THE
NATIONAL ASSOCIATION OF WOMEN BUSINESS OWNERS

BEFORE THE
DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE
THE JUDICIARY AND RELATED AGENCIES
SUBCOMMITTEE ON APPROPRIATIONS
UNITED STATES HOUSE OF REPRESENTATIVES

Opening Remarks

Mr. Chairman and members of the Committee: I speak today for the National Association of Women Business Owners.

My name is Susan Hager and I am a partner of Hager, Sharp, and Abramson in Washington, D.C. We welcome this opportunity to submit a statement in support of the FY 1980 and FY 1981 budget for the Small Business Administration's proposed Women's Business Enterprise Program.

The National Association of Women Business Owners, a non-profit membership association, was formed in the early 1970's as a local group of women who owned businesses in the Washington, D.C. area. Our membership quickly expanded. Today, the National Association of Women Business Owners is an effective national network for information and referrals and the major representative on Capital Hill and in the business community for the interests of women business owners throughout the country. Our representatives serve on the Small Business Administration's Advisory Committee and the Treasury Department's Advisory Committee on Small Business. Our constituency is nationwide, with members in every state and local Chapters in 14 states, including Illinois, Texas, Minnesota, Massachusetts, California, Pennsylvania, Maryland, Virginia, Michigan, North

Carolina, Florida, Missouri, and the District of Columbia. The members of the Association include women engaged in almost every entrepreneurial endeavor, from manufacturing, service, and retail, to construction, real estate development, and agri-business.

We believe that this Program will have an important impact on the overall economic structure of our country. The feedback from our membership, our program activities, and NAWBO's participation in the White House Conference on Small Business have given us a strong base from which to comment on the need for this Program.

Specific Needs

Women entrepreneurs are a significant part of our nation's economy. In 1978, according to the Department of Labor's Bureau of Labor Statistics, one employed woman out of every 20 was working in her own business or profession. While most of these women were in retail trade or personal service industries, nearly 5% of self-employed women were employed in mining, construction, and manufacturing. The 1980 figure is certainly larger because, as noted in the Report of the President's Interagency Task Force on Women's Business Enterprise, the number of self-employed women increased by nearly 25 percent between 1971 and 1977, or about three times the rate of self-employed men.

To quote the Report further: "After months of research and evaluation, the Task Force has concluded that if starting a new business is considered difficult, it is considerably more difficult for a woman. A systemic history of overt discrimination starts her

on a course in life that steers her from a traditional 'man's province,' prevents her from training for careers that lead to entrepreneurship, diminishes her ambitions and aspirations for this career, and then places obstacles in her path as she tries to pursue it. For minority women these obstacles are even greater because of racism and cultural differences."

Over the years, NAWBO has worked actively to address the needs of women business owners. And in our experience, the consistent message from women entrepreneurs is the critical need for technical and management assistance, access to credit and other business needs based on a business' potential rather than gender. This message has been reinforced most recently at a Department of Education conference conducted by NAWBO, as well as at the White House Conference on Small Business where the priority options of the Women in Business workshop participants included management and technical assistance and access to credit. An additional concern is the lack of awareness of government assistance available, as well as the underlying intimidation that small business people feel toward the Federal government in general. Clearly, the message is assistance rather than preferential treatment.

In addition, the White House Conference on Small Business demonstrated the commitment of women and minority entrepreneurs to work together, rather than at odds. The leadership of the women delegates caucus, Chaired by NAWBO, and the minority delegates

caucus were in agreement that a separate track for a women's business enterprise program is an important step in the enfranchisement of women into the business community.

Proposed Program

The proposed Women's Business Enterprise Program, with a budget of $2.5 million in FY 1980 and $13.6 million in FY 1981, would provide a critical program that would begin to fulfill clearly identified long standing needs of women business owners.

Program goals are basic and rely on the cooperation between the private and public sector: to develop effective business management skills in significant numbers of potentially successful women entrepreneurs; and to improve the business environment for women-owned businesses.

Implementation of the Program requires establishment of a new Office of Women's Business Enterprise within the Small Business Administration and the reorganization of the Interagency Committee on Women's Business Enterprise to become advisory to both the new Office of Women's Business Enterprise and to the President. The Program projects at least a six-year effort beginning in FY 1980.

An important aspect of the Program is the special training and counseling centers which will be set up in 10 to 12 major cities. These centers will be geared for the specific management and technical needs of female entrepreneurs. We see these centers as an expansion of the current Small Business Development Centers

which are University-based. The Training and Counseling Centers for women entrepreneurs would be located in urban areas where there is a high population of such owners. Furthermore, the private-sector aspect will contribute significantly to the program's accessibility to women and acceptability to the business community.

Another important aspect of the Program is that within five years, the returns could more than offset the entire cost of the program, in terms of increased personal income, tax revenues, and the jobs created by firms assisted by the Program. It is a program that will contribute substantially to the growth and stability of job-creating small businesses that heretofore have been completely neglected. In addition, as business people, necessarily concerned about the expanding bureaucracy, we particularly support such an important program that also calls for significant utilization of the private sector for basic contracting of program services. We believe this is a sound means to operate and evaluate such a program.

Conclusion

Women business owners are a growing, activist constituency. Our clout in the nation's economy is acknowledged. Women business owners are identifying themselves as such, are forming networks, and are making sure that their increasing visibility is recognized. The National Association of Women Business Owners is greatly concerned that the provisions of the Interagency Committee on Women's Business Enterprise and the President's Executive Order #12138 become a reality. We support and maintain an active involvement in the passage of this budget appropriation and in the implementation of the Program.

Thank you for the opportunity to present our views here today.

TUESDAY, APRIL 15, 1980.

BOARD FOR INTERNATIONAL BROADCASTING

WITNESSES

HARRY FISDELL, EXECUTIVE VICE PRESIDENT, NEWSPAPER GUILD OF NEW YORK
HORST PETZALL, SOCIETY OF INTERNATIONAL BROADCASTERS

Mr. HIGHTOWER. Would Mr. Harris Fisdell and Mr. Horst Petzall like to come to the table.

We will be happy to hear from you at this time.

STATEMENT OF MR. FISDELL

Mr. FISDELL. I am Harry Fisdell. I am Executive Vice President of the Newspaper Guild of New York. I thank you for giving me the opportunity to testify.

In this matter I am also authorized to speak for the German Unions, Radio Free Europe/Radio Liberty in Munich, Deutsche Angestellten Gewerkschaft, the Bayerische Journalisten Verband, and the Rundfunk-Fernseh-Film Union, which, together with the Newspaper Guild, represent the employees of Radio Free Europe/Radio Liberty.

The Unions' responsibility is first of all to negotiate with the Radios' management the Union contracts governing working conditions and salaries of the employees we represent. Only in situations in which we believe that the fulfilling of the mission of the Radios is endangered do the Unions feel it our duty to speak up before the appropriate congressional authorities.

I don't need to tell this committee how vitally important it is at this time of crisis in international affairs for the United States to continue to oppose, through its foreign policy, the enemies of the freedom of mankind. You know that far better than I do. I am here to remind you of the essential role that RFE/RL play in that policy, and to urge you not to do mortal injury to the Radios by cutting their budgets.

We are of the opinion that presently RFE/RL is experiencing difficulties that may critically affect their product and their mission. It is a fact that from 1968 until 1979 the strength of RFE/RL has been reduced from 2806 employees in 1968 to 1730 in 1979. I am presenting for the record appropriate documents to substantiate those figures. Although very reluctantly, it has been agreed that during the fiscal year 1980 the number of employees will be further reduced to 1700. This has not happened without negatively affecting the impact of RFE/RL broadcasts, to the point that they experienced during the past several years a certain loss of listeners.

In spite of this, because of further cuts in the RFE/RL budget by more than $2,500,000 for the fiscal year 1980, RFE/RL management was forced to initiate additional savings measures. They include further reduction of personnel by closing and freezing 50 positions, reducing freelance contributions by more than 30 percent, etc.

I am presenting for the record "Management's Savings Package for Fiscal Year 1980." We are convinced that these reductions can no longer be absorbed without cutting the programs in drastic measures that we have been able to avoid in the past.

These cuts in programming will not only cause further deterioration of the impact of the Radios, but also will be interpreted by the Radios' listeners as a change in the foreign policy of the United States. It will be viewed as an abandonment of this position in Eastern Europe and the Soviet Union. We feel that under these circumstances, it is our duty to sound the alarm and to warn against the negative effects which would result from the lack of adequate funding of the Radios.

Allow me, with the intimate knowledge we have as a result of our years-long contact with the Radios, to state here that all human and material reserves in this organization have been exhausted during the past several years, during which the Radios' personnel and budget have been severely cut.

In our conviction, the Radios are unable to absorb a loss of even the $2.5 million in the framework of a budget of more than $83 million without further cuts in personnel and in programming. Such cuts will ultimately have negative effects on the Radios' product and mission.

May I also point out that the debate about the supplemental budget for RFE/RL for fiscal year 1980 and about the budget for fiscal year 1981 is taking place at a time when everybody agrees on the importance of the communications media. I don't need to quote here President Carter, the National Security Advisor Brzezinski, Senators Pell and Percy, and many distinguished television and newspaper personalities, insisting on the importance of the role of institutions like RFE/RL, VOA, etc., in the present international political situation.

Lately on several occasions, questions have been raised about the size of the compensation of RFE/RL employees in Munich. Especially after the strong devaluation of the dollar, the opinion began to prevail that these people are overpaid. That is wrong. That idea is based mainly on information about top salaries, as well as on a distorted picture of the salaries in Munich, made by including a number of elements of compensation pertaining to service in foreign countries. The real criteria for the compensation of RFE/RL employees in Munich would be at least a comparison in Deutschemarks with the salaries of the local Bavarian radio and television service, which is a semi-official corporation.

The large majority of the employees of RFE/RL is composed of secretaries, researchers, analysts, producers, speakers and editors. On the RFE/RL language salary scale, they range from group 5 to group 12, providing salaries, and these are monthly salaries, from DM 1787 in group 5, Step 1, up to DM 6018 in group 12, Step 8. These correspond in the salary table of the Bavarian radio and television service from group 6 to group 14, providing salaries from DM 2202.94 in group 6, step 1 to DM 5539 in group 14, step 8. They are basically comparable. RFE/RL pays freelancers in Munich half of what German radio and television services pay their freelancers, and freelance contribution is becoming more and more an important part of the RFE/RL budget.

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On the basis of my experience, and many years of activity in the field of journalism, may I also emphasize that the personnel of RFE/RL represents a group of unique talents, unique by virtue of their knowledge of the culture, history, political developments and the language of the countries of Eastern Europe and the Soviet Union.

It has taken an effort of many years to build up this multi-language and multi-national group into an effective communications organ. It is of vital importance to the foreign policy of the United States to do everything possible not only to prevent the group's destruction, but to increase its effectiveness in the present international circumstances.

[The information referred to in Mr. Fisdell's statement follows:]

MANAGEMENT'S SAVINGS "PACKAGE" FOR FY 80

The FY 80 budget shortfall is $1.5 million

Therefore, the following cuts are to go into effect as soon as possible:
[The changes apply to the remainder of the fiscal year(9 months)]

1. All freelance payments are to be reduced by 30-40%
2. Transmitter power will be reduced [shut-down for specific times]
3. Overtime payments will be severely limited
4. Temporary employment contracts to be limited
5. Reductions in the purchase of books and periodicals
6. Business travel will be severely limited
7. Maintenance and repair will be reduced
8. General administrative costs -- paper, etc. will be reduced
9. Capital purchase [furniture, typewriters] will be reduced

→ $750,000

10. There will be selective non-filling of slots
11. There will be "some" dismissals
12. There will be only minimal promotions
13. ~~There will be a one year moratorium on step increases~~
14. Employees with housing will be asked to pay their electric bills
15. The tuition reimbursement will be limited to English language instruction only
16. ~~There will be a one year moratorium on all home leaves~~
17. There will be a reduction of home leave allowances when home leaves resume at the end of the FY.

→ $750,000

RFE/RL, INC. PERSONNEL COUNT

As of End	RFE	RL	Total
FY 1968	1793	1013	2806
FY 1969	1730	1005	2735
FY 1970	1668	971	2639
FY 1971	1634	953	2587
FY 1972	1573	808	2381
FY 1973	1532	836	2368
FY 1974	1291	734	2025
FY 1975	1270	741	2011
FY 1976 (first year of merger)			1821
FY 1977			1765
FY 1978			1749
FY 1979			1730

Mr. HIGHTOWER. Thank you very much, Mr. Fisdell.
Mr. Petzall?

STATEMENT OF MR. PETZALL

Mr. PETZALL. If I may, rather than read my statement, just make it a part of the record and then I will make a few remarks.
Mr. HIGHTOWER. We will be happy to have you summarize your statement, and shall insert your entire statement at this point in the record.
[The statement follows:]

STATEMENT OF HORST S. PETZALL
CHAIRMAN, BOARD OF ADVISORS,
SOCIETY OF INTERNATIONAL BROADCASTERS
CONCERNING THE FUNDING OF RADIO FREE EUROPE/RADIO LIBERTY
FOR THE FISCAL YEAR 1981.

Mr. Chairman: I am very grateful for the opportunity to present the views of the Society of International Broadcasters (SIB) with respect to the appropriation request for Radio Free Europe/Radio Liberty for the fiscal year 1981. Last year when I gave testimony on behalf of the SIB, I supported the RFE/RL budget appropriation request then pending. This year, The SIB cannot support such an appropriation unless it includes an amount to cover the upgrading of pensions of former members of the RFE/RL staffs, now retired or pension-vested, who left the employ of the Radios before July 1, 1976.

It is the position of the SIB that all those eligible for RFE/RL pensions should receive benefits based on an identical formula. The accomplishment of this end has now become a matter of the greatest urgency. The SIB cannot in good conscience support the budget request for the Radios as put forward by the Board for International Broadcasting for the fiscal year immediately ahead, unless the funds for such pension improvements are mandated out of whatever the total amount of money the Congress will make available for the operation of the Radios for FY1981.

The SIB is an organization incorporated in New York State, composed of radio journalists and broadcasting professionals in this country and abroad. The Society seeks to maintain the link of interest shared by those who have been engaged in international broadcasting and to express its members' desire to see an expansion of the free exchange of information between all countries and peoples as called for in the Helsinki Agreements.

In view of the current Soviet actions to flagrantly negate this principle, continuance of RFE/RL broadcasts is more vital than ever to the furtherance of those aims. However, we feel constrained to point out that the Radios' moral position is seriously compromised when the RFE/RL management coldly disregards its obligation to those who were in large measure responsible for making the Radios into the effective voices of freedom that they are today.

These men and women, who served the Radios with unparalleled dedication, many for more than two decades, are now in their declining years and because of their limited means, inflation has worked severe hardships on them. They currently receive small pensions fixed by a multiplicity of RFE/RL pension plans, all of which are vastly inferior to the pensions approved for present RFE/RL employees since 1976. The pre-1976 pensions were calculated on formulas which included the deduction of Social Security, as well as other restrictions which are no longer being applied for RFE/RL employees covered by post-1976 pensions.

In the last 10 years the inflation rate has totalled over 100 per cent which, in terms of purchasing power, cut the incomes of those retired by more than half. The enormity of the inequity caused by the exclusion of retired RFE/RL staffers and their widows from the pension improvements approved in the Radios' budgets for the past four years, can be seen in the fact that current employees will now receive pensions four to five times greater than the amount received by those retired before 1976. Redress of this situation is extremely urgent. This situation becomes brutally clear by looking at some specific cases of retirees -- all of whom are American citizens.

Mrs. B., 73-years-old, worked as an announcer for RFE/RL in Munich and New York for 18 years. She lives in New York and receives a pension of only $190 a month. She is currently facing eviction from her $75 a month cold water flat.

Mrs. Alice B. might be considered more fortunate. She retired after 16 years of employment with RFE on a pension of $220 a month, augmented by U.S. social security. At today's inflationary prices, it is difficult for her to make ends meet.

Mrs. D., resides in Washington, D.C. Her husband served Radio Liberty in various senior managerial positions in Munich and New York for over 20 years, until 1973. He died in 1976 at the age of 52. Despite his 20 years of employment, his widow receives no benefits from his RL service.

Mrs. Hanna S., who is 85, worked for RFE in Munich as a senior editor for more than 15 years. She receives a pension of only about $150 a month, and has no social security coverage. She resides in Oslo where, without the charity of a few loyal friends, she could not survive.

Mrs. P., the widow of a former staff member of RFE's Polish Broadcast Department, lives in London on a pension of only $194 a month. She is not eligible for social security, and is dependent on the generosity of friends.

Mr. S., who retired from the Romanian Broadcast Department in 1970 after 20 years of service, now lives in France, his only means of support is a totally inadequate monthly pension of $304.

Another former member of the Romanian Broadcast Department, who served in Munich for 20 years, retired in 1970 with a pension of $169 a month.

A number of former staffers of the Polish Broadcast Department, all with more than two decades of service, reside in London.

Among them are Mr. B., who receives a pension of $345 a month; Mr. K., who receives $390; Mr. T., who receives $388; and Mr. F., who receives $352. None receive social security or other pension income.

Overall, those retired before 1976 receive pensions ranging from $150 to $500 a month, averaging about $230 a month. This compares with pensions of those who retired after 1976 or those still employed by RFE/RL, which range from lows of about $300 a month to well over $1,000 a month, with the average falling between $600-700 a month.

The SIB feels that most serious consideration must be given to eliminate such inequities. RFE and RL are now funded through the U.S. Congress, and were funded covertly by the U.S. before that. But, the pensions received by those who retired from RFE/RL before 1976 are obviously totally inadequate in comparison to those employed at other U.S. Government agencies which do virtually the same work, such as the Voice of America. Retired Voice of America employees, for example,

routinely receive regular semi-annual cost-of-living adjustments.

To repeat, the heart of the SIB position is that all those now on RFE/RL pensions, or those eligible for such pensions, and their widows, in all justice should receive benefits based upon an identical formula.

The changes required and estimates of costs involved (subject to actuarial review) to accomplish a pension formula equitable for all include:

1. Elimination of Social Security offsets for all retirees (now in force only for RFE/RL staff members retiring after July 1, 1976) would require $670,000 in FY1981 and $341,000 in FY1982.

2. Change in Social Security offset formula for all nonretired, vested employees would require an additional $760,000 in FY1981, and $750,000 in FY1982.

3. RFE/RL management recently reached agreement with various unions regarding tri-annual cost-of-living and hardship improvements for both old and new pension plans. Based on C.O.L. indices, pensions are now reviewed and increased accordingly every three years. This C.O.L. increase is not applicable to pensioners who retire prior to July 1, 1976. To provide an indexed RFE/RL pension payment system which automatically and fully offsets annual C.O.L. losses and guarantees a subsistence minimum total monthly pension income of approximately $500 (made up of RFE/RL pension plus social security benefit) to all RFE/RL pensioners, would require $320,000 for FY1981, and $350,000 for FY1982.

4. Approximate costs to consolidate RFE/RL dollar and Deutsche Mark pension plans, effective October 1, 1978, would be $490,000 for FY1981 and $410,000 for each subsequent year.

5. There are also some fifty cases of widows of deceased RFE/RL employees who died prior to July 1, 1976 when there were no provisions in RFE/RL pension plans for widows' pensions. A one-time amount of $1,363,200 in FY1981 would be needed to resolve this issue.

Totals of all above estimated amounts are as follows:

	FY 1981	FY 1982
Refund Social Security Offsets to Current Retirees....	$670,000	$341,000
Change Social Security Offset Formula For Active Vested Employees...	$760,000	$750,000
Annually Indexed Pension Adjustments... (add $82,000 for FY1979)	$320,000	$350,000
Single Plan Concept...	$490,000	$410,000
Rectification of Widows' Pension Issue...	$1,363,200	
	$3,603,200	$1,850,000

In Addition to widows, 290 pre-1976 pensioners and 110 pre-1976 vested non retired staff members would be covered by this proposed upgrading of pensions.

Let me now repeat in part what I said last year in my statement to you. The SIB feels that there are a number of persuasive arguments both moral and legal in support of the position it takes. Equalization of pension formulas for both former and present employees of RFE/RL would benefit those who can be credited with making these two organizations the effective instruments they are today. For the most part, exiles from Eastern Europe, now U.S. citizens, they literally devoted the most productive years of their lives to this task. Their education and talent could have secured them better paid occupations at universities and in other fields, but they were persuaded instead to pursue the mission of the Radios, a mission which was described to them as a partnership between exiles and Americans. Now in retirement, due to the inadequate pensions they receive, they are in desperate need of and deserve improved

retirement benefits.

It should be pointed out that the principle of applying equal pension formulas for all would still not result in equal pensions. Far from it. Those presently employed, because of their higher salaries, would still receive higher pensions than those presently retired. But at least there would be fairness in the application of a single computation formula for all of those eligible for RFE/RL pensions.

Because RFE and RL from their inception have been financed by the U.S. Government, the obligation and the responsibility of the U.S. Government is clear. When the Congress began to openly finance RFE/RL, considerable improvement with respect to salaries and pensions followed, improvements which unfortunately were not extended to those already retired or to former employees who lost their jobs because of previous budget cutbacks. These men and women are entitled to more consideration than they have so far received.

Last year, when the SIB sought a supplementary appropriation to cover pension improvements, we were advised that we should try to work with the RFE/RL management and try to get the item into the FY1981 budget request so that no "supplementary" appropriation would be needed. This we did, depending on the good faith of the RFE/RL management and the Board for International Broadcasting, both of which assured us that they were in sympathy with our request. We then learned that the pension equity package was included in the budget proposal submitted to the Office of Management and Budget, but we did not learn until much later that this item was ranked with such low priority that it fell outside of the budget limitation of just over $103 million for FY1981 that was prescribed by the OMB.

Consequently, this item is not included in the budget request now before the Congress. We feel that it should be included, in fact, mandated, out of whatever monies are approved for the operation of the Radios. We feel that the low priority ranking given by the RFE/RL management to this item is unconscionable, in view of the fact that this is the largest budget RFE/RL has every requested -- a budget that includes considerable increases in compensation, including special allowances for the present staffs and management of the Radios, while ignoring the increasingly desperate plight of the very people whose dedication and sacrifice created the Radios.

Thank you, Mr. Chairman, and I shall be pleased to respond to any questions you may have.

Mr. PETZALL. It is the position of the Society of International Broadcasters that all the employees that are eligible for pensions from Radio Free Europe and Radio Liberty should receive benefits at least based on an identical formula.

In 1970, those who had retired before that date or widows of retired employees received pensions under one formula where in 1976 that formula was changed for employees who retired subsequent to that date and this has created an extreme hardship for those who are retired. My statement does cite some cases to illustrate this extreme hardship.

When I was here last year, I said that this matter was really extremely urgent and that something should be done to rectify this situation. We are talking about people in their seventies and eighties. If we wait much longer, the problem probably will solve itself, but that will be a very inhumane way to handle the situation for people who are really responsible for building these organizations into the effective voices of freedom that they are today.

I would like to, in that connection, cite a passage from H.R. Report No. 92-541 of September 30, 1971 which was issued at the time when consideration was given on how to finance the Radio Free Europe and Radio Liberty overtly. That report said that "The House directs the Commission," which was going to make its recommendations, "to include in its recommendation and consideration the protection of the rights and equities of past and present employees of Radio Free Europe and Radio Liberty."

Well, I do believe that present employees are being considered adequately now, but you notice that the word "past" was included in the directions which the House gave at that time, and I really believe that that consideration should be given to those people now.

As I said before, the matter is extremely urgent. These people are really in an increasingly desperate plight, and the details of their situation are stated in my statement. What is involved are approximately 290 people presently on pension and 50 widows. I really respectfully urge that the monies necessary for the equity that these people are entitled to be made part of the RFE/RL budget this year.

It is also the position of the SIB that while we certainly support the budget requests of the Radios because we feel they are vitally necessary, particularly at this time, as they have always been, that, because of the urgency of this particular situation, whatever monies are in that budget should include the monies that cover this request.

Mr. HIGHTOWER. Thank you very much, Mr. Petzall.

Mr. Smith?

Mr. SMITH. I have no questions at this time.

Mr. HIGHTOWER. Gentlemen, we appreciate your being here today. Thank you for your testimony.

TUESDAY APRIL 15, 1980.

LEGAL SERVICES CORPORATION

WITNESS

C. LYONEL JONES, PRESIDENT, NATIONAL LEGAL AID AND DEFENDER ASSOCIATION

Mr. HIGHTOWER. Mr. Lyonel Jones, we would be happy to hear from you at this time.

Mr. JONES. Yes, sir, Mr. Chairman.

Mr. HIGHTOWER. You have a prepared statement which we will insert in the record at this point. We will be happy to hear from you in any way you want to proceed.

[The statement follows:]



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TESTIMONY SUBMITTED

TO THE

SUBCOMMITTEE ON STATE, JUSTICE
COMMERCE AND THE JUDICIARY

OF THE

COMMITTEE ON APPROPRIATIONS

UNITED STATES HOUSE OF REPRESENTATIVES

by

C. LYONEL JONES, PRESIDENT
NATIONAL LEGAL AID AND DEFENDER ASSOCIATION

April 15, 1980

Washington, D.C.

Mr. Chairman and Members of the Subcommittee:

My name is C. Lyonel Jones. I am the President of the National Legal Aid and Defender Association, also known as NLADA, and the Executive Director of the Cleveland Legal Aid Soceity. While I speak to you in my role as President of NLADA, my remarks also are derived from my personal involvement in the effort to provide legal services to those who have had no access to the system of justice.

The National Legal Aid and Defender Association, which was established in 1911 and whose membership includes legal services programs, public defender offices, members of the private bar and clients, is a private, non-profit organization that devotes all its resources to the support and development of legal assistance in both civil and criminal matters in the United States. While supporting the request of the Legal Services Corporation for $353 million in fiscal year 1981, we ask for $403 million for reasons I will enumerate. As President of NLADA, I am here today to urge your support of the fiscal year 1981 appropriations request of the Legal Services Corporation in the amount of $403 million. This figure of $403 million is the amount necessary to sustain the current service capacity of local programs and to fund the real needs of the poverty population.

In creating the Legal Services Corporation in 1974, Congress determined that a need existed to provide equal access to our nation's system of justice and to provide high quality legal assistance to those otherwise unable to afford adequate legal counsel.

Because of the disparity between the availability of private attorneys (11.2 per 10,000) for those above the poverty threshold and the availability of attorneys for individuals at or below the poverty level, the Corporation adopted its policy of minimum access. As defined by the Corporation, minimum access means two attorneys for every 10,000 persons at or below the poverty line.

Since 1976, the Corporation has made significant progress in facilitating minimum access and quality legal services for the nation's 30 million poor. At the end of fiscal year 1980, legal services programs, at a minimum level of funding, will have expanded to every area of the country and expansion will be completed.

It is important that the members of this Appropriation Subcommittee focus on how "minimum" this "minimum access" is. The Legal Services Corporation received a $300 million appropriation for fiscal year 1980. Further, the new monies appropriated have expanded service to new areas of the country at the expense of older existing programs. Despite the dramatic increases in the budget of LSC over the past few years, these older programs have not shared in any major way in the additional allocation that Congress has appropriated. These programs have been substantially affected by rampant inflation and much of the buying power of their budgets has been lost. The cost of living increases and the cost of service increases that the Corporation has provided have been well below the level of inflation (5% cost of living increase in

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1980 when inflation is near 18%). These programs have never regained the levels of service that they lost. While the Corporation has addressed some of the problems created by these cutbacks, its dedication to the primary object of minimum access, in fact, has had the unfortunate effect of significantly cutting some programs. In effect, the community expectations as to the level of quality of local legal services programs have not been met.

The success of the legal services program depends on effective planning for the future and your continued support. To that end, the $50 million above the Legal Services Corporation's request which we advocate would extend minimum coverage of the presently targeted client population to the institutionalized poor and foster care children (including individuals in institutions for the retarded and mentally ill, nursing homes and prisons).

As the Corporation has amply expressed in its budget request, there are still some two million of the nation's 30 million poor in institutions who are without adequate access to minimal legal services. The Corporation has included $9.45 million in the 1981 fiscal year appropriation request to begin services to this targeted client population. We feel that twice this amount is required to be able to address, in any kind of realistic way, the need for high-quality legal assistance to the institutionalized and coverage of foster care children, those unable to afford adequate legal counsel.

Further, our proposed budget would begin to surmount the impact of inflation on legal services projects, at the same time,

implementing salary comparability for legal services attorneys with public defender and state attorney general staff salaries. Finally, the additional funds would provide new initiatives in the provision of quality legal assistance to the poor.

With the creation of the Legal Services Corporation, an economical and efficient method has developed to aid in enforcing the nation's laws without the establishment of another large federal agency. The Legal Services Corporation has had a definitive place in this enforcement mechanism as Congress has seen fit to pass laws which have affected poor people as well as the general public in a myriad of ways, including laws to assure decent standards of living -- housing, nutrition, health care, jobs, education -- to protect against discrimination, against unfair commercial practices and against other problems. The budget request of the Corporation includes monies to deal with some of the minimal aspects of its allocation system.

The additional money would provide a nine per cent cost of maintenance increase for existing legal services programs. This amount will begin to offset some of the increased costs of providing services in the last year that have resulted from an inflation rate well above the inflation level projected for 1980. Also, the additional $50 million of the requested appropriation for the fiscal year 1981 appropriation could be allocated to service to the institutionalized, increased national support activities and increased state support activities. The requests in the above areas more

realistically reflect the costs of providing adequate legal services as well as recognition of the need for budget adjustments. (See attached suggested budget allocation.)

Despite the increases in the budget of the Legal Services Corporation over the past few years, it should be apparent to this Subcommittee and to Congress that the program has been operated on an extremely economical and cost-conscious basis. Not more than three per cent of the funds appropriated have gone to management and administration; over ninety per cent of the funds appropriated go directly to field services -- another indication of the effective use of the dollars appropriated.

The Legal Services Corporation's fiscal year 1980 appropriation contained a rider which prohibits legal services programs from undertaking any activity on behalf of illegal aliens. As a matter of principle, our association opposes any limitations on the representation of clients by staff lawyers and hopes that this Subcommittee will oppose efforts to limit representation of eligible clients. Poor people should have complete access to legal representation regardless of the nature of their legal problems and local legal services programs should establish priorities for the allocation of monies to their programs based on local needs.

This restriction is inconsistent with the Corporation's mandate to provide equal access to our system of justice for poor persons unable to afford an attorney. Poor aliens a[illegible]ng those persons most vulnerable to exploitation by the uns[illegible]in our

society. Denial of legal services to this class of persons removes any protection which aliens may have against violation of their legal rights.

Further, we do not believe that it is incumbent upon staff attorneys to make what amounts to a judicial determination of the status of indigent aliens. The question of whether or not an alien is in the United States legally is often extremely complex and such a decision can only be made in the course of appropriate proceedings by immigration officers conducted under the Immigration and Nationality Act. We hope that this Subcommittee will oppose any attempt to restrict the ability of legal services programs to represent aliens.

Since it began operations, LSC has initiated programs specifically designed to impact upon communities of the poor, which previously had no legal advocates at their disposal. It has attracted a cadre of highly talented and committed attorneys who believe that providing representation to the poor is a worthwhile and rewarding career objective and not simply a diversion between law school and private practice.

We recognize the congressional need to develop anti-inflation efforts and the mounting concerns among members to curb growth in federal spending. It is our position, however, that the establishment of LSC and the growth of legal services to the poor is an area of the federal budget which requires sufficient funding at levels commensurate with the needs of poor people in this country for civil

legal assistance.

Expansion of legal services to the poor has been accompanied by expectations of the client community. Millions of citizens have seen the justice system work through enforcement of their legal rights and have come to believe that justice in this nation is not only for those who can afford to pay. The Legal Services Corporation has promoted competent representation for the poor, and with adequate funding and support, it can continue to insure access to our legal system. Without adequate funding, "equal justice under law" is an empty and meaningless phrase for the poverty community.

NLADA urges your support for a fiscal year 1981 appropriation to the Legal Services Corporation in the amount of $403 million.

# # #

Mr. JONES. Thank you.

Mr. Chairman, I am here as President of the National Legal Aid and Defender Association this morning to urge this committee's support for a budget of $403 million to the Legal Services Corporation.

Aside from being the President of the National Legal Aid Defender Association, I have been involved in the Legal Services movement in Cleveland, Ohio, for 15 years. I guess I may be one of the oldest legal services attorneys in point of service in the United States, so I speak to the issues involved around this budget from a different perspective than maybe former members of the National Legal Aid have spoken to.

The Congress, in 1974, in establishing the Act, indicated that there was a need to provide a system by which everyone in the United States would have an opportunity to redress their grievances in a court of law. The Legal Services Corporation in 1976, as a result of that legislation, established a minimum access policy and this was to provide two attorneys for every ten thousand poor persons and to provide that every county in the United States have access to legal services. This will be completed by the end of 1980.

However, with the present budget, we must now start to address some of the issues that have affected legal services during this period of growth. Inflation has hit many of the older programs in the country, and I can speak to that as being one of those older programs, and it has caused us to have to reduce staff and to reduce services.

We are asking for a $30 million increase this year in this budget to provide for salary comparability so that the salaries of our attorneys will be able to compete with those of the public defenders and states attorneys in the various states.

I further am here to urge the committee to resist any restrictions on the representations provided by legal services attorneys. The last appropriation contained what is called an alien rider which in effect says that legal services money cannot be used to represent an illegal alien. It puts legal services attorneys in the position of having to determine whether or not a person is an illegal alien, which is a very protracted process under the Immigration and Naturalization Service, to say the least. But it is a process that should be handled by that service and not handled by legal services attorneys, People who are aliens, whether legal or illegal, should not be denied the right to legal services. Many illegal aliens are preyed upon by unscrupulous merchants, by people who will use their labor on farms and then report them to the Immigration and Naturalization Service. It is also interesting to note that the whole legal services movement going back to legal aid in New York. I guess over a hundred years ago, the New York Legal Aid Society was established to prevent unscrupulous merchants from taking advantage of aliens in this country, and I think that that spirit has gone on into legal services. We feel that everyone should be provided the right to a lawyer irrespective of their citizenship status at the time.

There is no question that we recognize the congressional need to develop anti-inflation efforts and the mounting concern among members to curb the growth in federal spending. It is our position,

however, that the establishment of the Legal Services Corporation and the growth of legal services to the poor is an area of the Federal budget which requires significant funding at levels commensurate with the needs of poor people in this country and civil legal assistance.

The Legal Services Corporation has promoted competent representation for the poor and with adequate funding and support it can continue to insure access to our legal system. Without adequate funding, legal justice under law is an empty and meaningless phrase for the poverty community.

NLADA and I, as its President, urge your support for the fiscal 1981 appropriation to the Legal Services Corporation in the amount of $403 million.

Thank you.

Mr. HIGHTOWER. Mr. Smith?

Mr. SMITH. I am glad to have your testimony.

I just want to mention as far as illegal aliens are concerned, the language included in the appropriation prohibits legal aid services from being used on behalf of those who are known to be illegal aliens.

Mr. JONES. Known to be, this is correct, sir.

Mr. SMITH. It is very difficult to get the money for this program. I can't think of anything that would kill it faster than to have a few more examples of Iranian students beating up on Chicago citizens and Legal Services spending their time defending them while these poor people out there don't have any aid. That is no way to promote this program.

Mr. JONES. That, of course, is a very volatile issue at this point. I agree with you.

Mr. HIGHTOWER. That volatile issue is some Legal Services people stirring up suits against governmental jurisdictions and making announcements in other parts of the world about what they are doing. I like to see poor people have the benefit of legal counsel, but I am not sure that some of this has been handled as it ought to be. If it takes additional riders, I hope this committee will act accordingly.

Thank you very much. We appreciate your testimony.

Mr. JONES. Yes, sir.

TUESDAY, APRIL 15, 1980.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

WITNESS

ROD THOLE, ASSOCIATION FOR PUBLIC BROADCASTING

Mr. HIGHTOWER. Mr. Rod Thole, we will be happy to hear from you at this time.

Mr. SMITH. I might mention, Mr. Chairman, Mr. Thole is relatively new in Iowa as Director of the Iowa Public Broadcasting

Network, I guess one of the first really statewide broadcasting networks in the country. It has been very successful.

Mr. HIGHTOWER. Mr. Thole, we have your prepared statement, which we will insert in the record at this point. You may proceed as you choose.

[The prepared statement follows; additional exhibits submitted with the statement are on file with the Committee:]

STATEMENT OF THE

ASSOCIATION FOR PUBLIC BROADCASTING

REGARDING APPROPRIATIONS FOR

PUBLIC TELECOMMUNICATIONS FACILITIES PROGRAM (PTFP)

OF THE

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

BEFORE THE

SUBCOMMITTEE ON

STATE, JUSTICE, COMMERCE AND THE JUDICIARY

OF THE

HOUSE APPROPRIATIONS COMMITTEE

April 15, 1980

Mr. Chairman and members of the Committee, I am Rod Thole, Executive Director of the Iowa Public Broadcasting Network, in Des Moines.* I appreciate the opportunity to appear before you, on behalf of the nation's local public television stations, in support of appropriations for the Public Telecommunications Facilities Program (PTFP), a grants program of the National Telecommunications and Information Administration (NTIA), U.S. Department of Commerce.

The Association is a non-profit membership organization established in January 1980 by the nation's public television licensees to organize their common efforts in the areas of research and planning, and to help present their views to the government, interested communications organizations and agencies, and to the public at large. A description of the Association, and a list of its Board of Trustees are attached.

PTFP was budgeted January by the Administration at $23.705 million for FY1981. We understand that the Administration is now asking this figure be cut to $21.705 million. PTFP is authorized at $40 million. We are here today to testify to the need for that program to be funded at its full authorized level -- $40 million.

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*Iowa Public Broadcasting Network is a system of eight public television outlets throughout the state and is licensed to the Iowa State Educational Radio/Television Facility Board.

PTFP BEGUN IN 1962

PTFP was begun in 1962 as the Educational Television Broadcasting Facilities Program. At that time the Congress recognized the need to help communities throughout the nation take advantage of the extraordinary potential for education and public service offered by the medium of television. This challenge by the Congress was answered by these communities who themselves raised many millions of dollars in response in establishing the public broadcasting system the nation enjoys today. The program has been reauthorized periodically since then, most recently as the PTFP in 1978. The 1978 renewal also transferred the program from the Department of Health, Education and Welfare to the Department of Commerce as part of the new NTIA.

CARNEGIE COMMISSION RECOMMENDS $350 MILLION

The Facilities program has been key to the growth and development of public TV and radio service to the American people. But the system is still far from complete. Additional stations and coverage are still needed in many areas, and will not be supplanted in most areas by other telecommunications systems for many years yet, if ever. New equipment for production and distribution by stations are an acute need in many other areas. Last year, following nearly 2 years of study, the Carnegie Commission on the Future of Public Broadcasting published its report, A Public

Trust.* The report called on the nation to increase substantially both public and private funds to public broadcasting, observing that "a strong and mature public broadcasting institution will become increasingly indispensable during the next decade...of fundamental importance in the preservation of our democratic ideals."* Recognizing the nation's unmet needs in coverage and services, the report lists current public broadcasting capital requirements at $350 million.

PTFP HELPS MOST PUBLIC TELEVISION STATIONS

The PTFP, in our view, has been a very successful program. It has provided the matching funds which the states, schools, universities and communities throughout the nation have used to build and improve most of the public TV and radio stations now on the air. Acting essentially as a provider of seed money, the relatively small amounts PTFP has provided each year have brought in many times those amounts in local non-federal funds as these stations have become established and continue operations with local funds.

PTFP does not provide operating funds. Instead, it provides the funds for the capital equipment needed to start new stations--transmitters, towers, cameras, and microphones--

*A Public Trust, the Report of the Carnegie Commission on the Future of Public Broadcasting, Bantam Books, New York, 1979.

as well as the substantive improvements and replacements in equipment which these stations need to reach more people with more high quality public service and educational programs. Many current applications are for new and vastly more energy-efficient electronic equipment designed to save substantial energy dollars in the future.

FY1980 APPLICATIONS TOTAL $79 MILLION

In the revisions accompanying the 1978 renewal of PTFP, its grants eligibility was expanded to increase the outreach of its services: grants for planning became allowable, as did grants for non-broadcast services (e.g., low power transmitters, cable TV, special radio equipment) and a higher priority for minority and women's applications. However, neither authorizations nor appropriations were increased to cover these expanded responsibilities.

Thus, while the PTFP program has been successful, it is now in a very difficult position. As a result of low funding over a period of years, a significant backlog of applications has built up. In addition, the newly eligible applications for planning, non-broadcast and minorities and women, and the increasing need to assist stations in maintaining first-class service to the public, have added and will continue to add significantly to the matching grant support requested. At this time, a record high $79 million in grant requests from 454 applicants is on hand at PTFP, facing an FY1980 appropriation of just $23.705 million. The overwhelming majority of these requests--$56 million worth--simply cannot be funded.

The PTFP program is a matching program, allowing up to 75% federal funds for local equipment projects. Local matching funds for the $23.705 million in FY1980 federal grants will total over $10 million. These local funds come from local contributions, schools and college funds, and from state legislative appropriations. Many essential items, such as land and buildings, are not eligible for federal funds.

All applications involving broadcast operations--and most do--must be approved by the Federal Communications Commission, calling for close coordination between the FCC and PTFP in order to prevent expensive delays.

Examples of Public Television Needs

Here are examples of PTFP television applications now pending for FY1980 funds, or (if not funded) for FY1981 funds. (The full list of 1980 applications is attached):

Arkansas
The Arkansas Educational Television Commission, Conway, seeks $300,000, to be matched with $100,000 in state and local funds, for program production equipment for the 5-station Arkansas network.

Illinois
The Chicago Educational Television Association, licensee of WTTW-Channel 11, seeks $435,000, matched by $141,000 in contributions from Northern Illinois viewers, to expand its local program production capability by acquiring portable TV cameras and video recorders.

In Peoria, Illinois Valley Public Telecommunications, licensee of WTVP-Channel 47, is applying for $689,000, matched by $335,000 in local funds, in order to install a new high-power transmitter and antenna tower. This new transmitting capability will effectively double the WTVP's signal strength and quality to the 475,000 persons in its coverage area.

Iowa
The Iowa Educational Television Network seeks $662,000, matched by $527,000 in state and local funds, to build local translator TV stations in each of 6 Iowa counties (Dickenson, Allamakee, Winneshiek, Appanoose, Wayne, and Ringold) in order that the 100,000 persons in these areas may receive the network's programs.

The Iowa ETV Network also is applying for $118,000 matched with $40,000 in state and local funds, to connect the network's programming to the Hawkeye cable system, serving 170,000 Iowa homes.

Massachusetts
WGBY-TV, Springfield, seeks $12,000 to plan TV translator stations for western Massachusetts, in order to bring its programming to the people of the Pittsfield area and the rest of Berkshire County.

WGBH-TV, Boston, serving eastern Massachusetts, seeks $127,000 to plan the most effective means of providing captioned TV programs for the hearing-handicapped, and to design a new teletext TV broadcasting service.

North Dakota
Prairie Public Television, Fargo, seeks $450,000, to be matched by $463,000 in state and local funds, to add a new public television station in Williston to the state network in order to serve all of northwest North Dakota.

Texas
KERA-TV, Channel 13, Dallas, which serves a wide area of North and West Texas by broadcast and cable, and has a translator in Wichita Falls, is applying for $326,000, matched by $109,000 in local contributions, to add new mobile production equipment. The new cameras and recorders will make it possible to originate programs from throughout KERA's broadcast area.

LOCAL FUNDS LOST

PTFP local matching funds face a special problem. In many cases, these local funds are state and local appropriations which revert to their various treasuries when not used in the current fiscal year. The local matching funds for the applications which will not be funded with FY1980 funds add up to about $27 million. Many stations will find that

these funds for which they and their communities have struggled sometimes for 3 or 4 years will simply disappear when the federal matching funds are not available.

FY1981 APPLICATIONS TO TOTAL OVER $150 MILLION

The picture for FY1980 is uniquely relevant to FY1981--about which we testify here. Most of the applicants who fail to receive PTFP funds this year will use the same applications to apply for funds from the FY1981 appropriation. These capital equipment items are usually just too expensive for most public radio and tv stations to be able to finance fully themselves. Generally, they have no choice but to postpone purchasing them without the federal matching funds. Thus we expect at least $50 million in FY1980 applications to be carried over into FY1981.

The Association is now in the process of surveying public television stations as to their planned FY1981 PTFP applications. With 90 stations returning surveys to date, more than $47 million is reported by public television stations in applications planned for FY1981. If those stations not yet responding have similar plans, the total would be over $87 million for all public television stations. Taking into account public radio needs and plans, and likely applications from others, the total of PTFP applications for FY1981 would exceed $150 million.

Survey results to date, from 90 public television stations, are as follows:

Planned Public Television Applications for PTFP Funds, FY1981
($ in thousands)

Grant Category	Request to PTFP (federal funds)	Total Project Cost (federal and local funds)
Expansion Current Broadcast Service	$25,093	$45,496
Second Channel Broadcast Service	3,717	4,914
Replacement of Equipment	14,161	19,859
Planning	575	787
Upgrade Production Capability	2,492	3,484
Non-Broadcast Distribution	1,554	2,072
Other	156	208
Total (90 public television stations)	$47,748	$76,893

If this same ratio of need were to hold true for the more than 70 stations who have not yet reported, the following would result for public television in FY1981:

Total project costs	$140,970,000
Requests to PTFP	87,538,000

APB RECOMMENDS $40 MILLION FOR FY1981

In view of the extraordinary demand for FY1981 federal PTFP funds--over $150 million likely--APB seeks the full authorized funding of $40 million. This $40 million in federal funds would be matched by approximately $20 million in local funds, and would bring new or substantially improved public television and other services to many millions of Americans.

We are well aware of the current efforts by the Congress and the Administration to reduce the proposed PTFP FY1981 federal budget. But neither the Administration's original budget of $23.705 million, nor its proposed reduced budget of $21.705 million, bears any relation to the needs expressed by the people in communities throughout the nation--needs which have been backed by substantial fund commitments of their own--with the expectation of matching federal support.

Even $40 million would fall far short of the demonstrated local needs, but it would at least come as high as is currently authorized. We look forward to the opportunity to develop new authorization legislation for FY1982 and thereafter later this year, urging a more reasonable level of funding for this program, along with a review of other future public broadcasting and non-broadcasting needs.

We appreciate this opportunity to present this testimony to you.

# # #

Mr. THOLE. Thank you, Mr. Chairman.

I should point out that this morning I have in the room Mr. David Carley, who is the new President of the Association for Public Broadcasting. He has joined us today, his first day on the job, and we are hopeful that many of you will get to know him much better in the weeks ahead as well.

We appreciate the opportunity to appear before you on behalf of the nation's local public television stations in support of appropriations for the Public Telecommunications Facilities program, a grants program, as you know, of the National Telecommunications and Information Administration, U.S. Department of Commerce.

Our Association is a nonprofit membership organization established in January of this year by the nation's public television licensees to organize their common efforts in the areas of research and planning, and to help present their views to the government, interested communications organizations and agencies, and to the public at large. A description of the Association and a list of the Board of Trustees of our organization has been provided to the committee in the materials that you have before you.

As you are aware, the Public Telecommunications Facilities Program was budgeted in January by the Administration at $23.7 million for fiscal 1981.

We understand that the Administration is now asking this figure to be cut to $21 million. The Public Telecommunications Facilities Program, of course, is authorized at $40 million.

We are here today to testify to the need for that program to be funded at its full authorized level, namely $40 million. The written testimony that you have before you details a series of facts and conditions which we believe articulates the case for the full $40 million appropriation.

We hope that you and your staff will take time to read it and absorb it. There is a lot of information that we feel is critical to making our case. In the formal draft paper, we explain the long-standing historical importance of the Federal Facilities Program, the funds that it provides to individual stations, and why we believe that support must continue. We take some time to discuss the matching principle which has worked so well in building the local public television and radio stations which currently exist and why that partnership of Federal funds matched to local financial commitments is so important to the future strength of our enterprise.

I would like to talk a moment today about that matching principle. The program, we believe wisely, requires that before any Federal facility dollars flow to the local station that a significant local fund match must exist at the local level. This, in effect, is a program therefore that helps those who help themselves. There has to be a local commitment before the Federal funds flow to the station. It is a partnership between the Congress and local sources and it has existed for a decade and, quite frankly, in Iowa it has been instrumental in putting our public broadcast network into place. Without it I would suspect we probably would not have the ambitious eight-transmitter network we have available to our citizens today. So the partnership has in effect built many of the public radio and television stations in Iowa, $1.6 million over the last decade in helping us build a solid system for our citizens.

Federal funds have served as the catalyst for local commitment of facilities and operational dollars. Continued operation of many existing stations will be directly tied to the amount of Federal facilities support that will be available during the next decade.

Our written testimony also discusses the public television station's concern that the demonstration of local need is very clear. As you are aware, there is now a record $79 million in grant requests from over 450 applicants. These are on file at the Public Telecommunications Facilities program office for fiscal 1980.

Given the funds available this year, we can expect that over $50 million of grant requests will be carried over to fiscal year 1981. Our Association's research suggests that an additional $70 million to $100 million in new projects will be generated next year, giving rise to a potential of over $100 million in requests for fiscal year 1981. Whereas this may appear to be a large sum of money, it does suggest a substantial need in the public broadcasting system for facilities and, even more importantly I think, to this committee, it should demonstrate a significant local match commitment on the part of local public television stations. This is, I think, a significant point because, on the one hand, local stations need to make financial commitments again before the Federal funds flow.

As is often the case in hearings such as this, you become inundated with facts, figures, statistics, numbers, dollars and so forth. In the few brief moments allotted to me this morning, I would like to forget a moment about those statistics and talk to you more about people because really we in public broadcasting are a people business. We are here to serve people and you are here to represent the people.

In a sense we have identical constituencies and each in our own way serve that broad constituency, the American people.

We are really not talking to you this morning specifically about television, or equipment, or dollars. What I want to talk about a minute is our enterprise and how we in public broadcasting affect people.

As a local public television network manager, I am concerned about two kinds of people in Iowa and I think you, as a committee, need to be concerned about these people as well. First, I am concerned about all of the people in our state who don't yet have a public television signal available to them. I want to emphasize that point to the committee because there is a belief that the public television system is completed and that it is finished; it is not. Indeed, all across the country there are areas presently not served with a public television or, for that matter, radio signal. In Iowa, specifically, we estimate that that amounts to approximately 100,000 persons who still cannot receive Iowa public television programming. Children, for example, in our state cannot receive our daytime instructional television service for the schools and school superintendents have been waiting a decade for that service to happen. These same children in the home setting are denied the quality home viewing of Sesame Street, Electric Company, Mr. Rogers, and many other fine public broadcast programs.

The elderly in our state which, by the way, is a percentage figure that is growing rapidly in Iowa, miss the daily "Over Easy" television broadcast, the only program on national television spe-

cifically designed to serve the elderly. There are people in our state who yet cannot receive this program because we don't have facilities in place.

Generally all of the adults and families who miss the wide schedule of national cultural, public affairs, and scientific programming that is available on our network.

I say to you, therefore, and it is a point I hope you will carry away from this meeting this morning, that the public television and radio system is not complete. It certainly isn't complete in Iowa. This grant request, that took quite a few months to put together and was submitted to the Public Telecommunications Facilities Program from Iowa, would remedy that problem.

It seems six translators will be placed in six counties in Iowa, which, if built, will then finally serve that additional 100,000 persons yet ready to receive service.

With hopefully a $500,000 local match, matched by some $600,000 of Federal money, those six translators will be put into place and finally those Iowans will receive public television service.

In effect, this committee has the power to make that happen. You can help us make certain that all those unserved people will receive the benefits of public broadcasting, benefits which many of us have come to recognize and enjoy and really take for granted. But the system won't be completed in Iowa, and I would submit in other areas of our country, unless there is an adequately funded and properly administered Federal Facilities Program. So I ask you to help us get to those people who still cannot get public television.

I am concerned about another group of people, and this may seem like a strange group, but I am very concerned about them. I am concerned about the people who do enjoy public television in this country and Iowa, and the number of increases each year, I might add, of people who enjoy it; they find our service worthy of increased time and increased funding on their part, and they have in a sense come to rely and depend on public television. But we have a problem in Iowa, and I would submit the same problem may exist in some of your states, and that is simply that our equipment in place is wearing out and our facilities will need to be replaced in the next decade.

As a local public television network manager, I face serious equipment replacement problems. This program is the program that has helped put the equipment in place, and is the program that we are counting on to make sure that similar equipment will be in place in the next decade. So again abandonment by you at this time through reduced facilities funding of the program will have catastrophic effects on the capital equipment replacement programs of all our stations.

The quality of service our viewers have come to recognize as vital to their interests needs to be ongoing and we need, therefore, your continued capital if our local funding sources are to remain supportive.

In summary then I believe it is important to tell you that at least from the Iowa view and the local manager's view, the $40 million authorization is indeed needed for fiscal 1981. It is needed to make sure that the public radio and television facilities in this

country are completed. They are not, as I pointed out. We need to get that job done, a job that we started over ten years ago.

We also need to prepare for the serious problem ahead of rapidly deteriorating production and transmission equipment, and this committee can help us be sure that the product will always have a means of delivery.

We also need to continue the program to help us have incentive whereby the local fund matching will continue. In effect, you provide the "medium" whereby the "message" of public broadcasting can continue to be brought to a large, appreciative and growing audience.

I should tell you that we are not insensitive to the fact that we understand there are now needs to balance budgets, to weigh priorities, but again I ask you to look very closely as you weigh the priorities because the $40 million request will pay major dividends for citizens all across the country for years to come. We believe it is a small appropriation, an appropriation that quite frankly still will not take care of the needs, but an appropriation we need desperately if public television is to continue on the path that we currently have laid for it.

Therefore, on behalf of the local television stations, their boards and staff, and most importantly, the people that we serve and you serve, we appreciate this opportunity to appear before you this morning.

Thank you very much.

Mr. SMITH. I just want to say that I have always supported this program and I am especially pleased with the current approach to its funding. I think it is better than what we used to have. However, this is a difficult year. The Administration put in $23 million, and I do not doubt there is a need for $40 million.

Do you know why the Administration put in $23 million?

Mr. THOLE. I cannot speak for why the President recommended those cuts. I have a feeling that perhaps the President himself is not fully aware of the facts I am trying to put forth this morning. In effect, the cut in moneys for public television and radio will have a devastating effect next year.

Mr. HIGHTOWER. Did I understand you to say only 100,000 people in Iowa are not privileged to have public television?

Mr. THOLE. Yes.

Mr. HIGHTOWER. Actually Iowa is much ahead.

Mr. THOLE. In our State, we have 95 percent coverage, Congressman. In other States, I would say that figure would be much higher. Of course, in two States in our country, Wyoming and Montana, there is no public broadcasting coverage.

Mr. HIGHTOWER. Thank you very much.

TUESDAY, APRIL 15, 1980.

SMALL BUSINESS ADMINISTRATION

WITNESSES

DIANA McLAUGHLIN, NEW DIRECTIONS FOR WOMEN
BEATRICE A. FITZPATRICK, CHIEF EXECUTIVE OFFICER OF THE AMERICAN WOMEN'S ECONOMIC DEVELOPMENT CORP.

Mr. HIGHTOWER. Diana McLaughlin, we will be happy to hear from you at this time.

STATEMENT OF DIANA McLAUGHLIN

Ms. McLAUGHLIN. Joan Rombro is my colleague at Baltimore New Directions for Women.

I am a small business consultant with Baltimore New Directions for Women, a private, nonprofit corporation, dedicated to helping all women maximize their potential in the labor market and to maintain equal employment opportunities for women.

For several years now, Baltimore New Directions for Women has sponsored small business courses and bi-monthly seminars entitled "The Realities of Owning Your Own Business." My primary job responsibilities have entailed providing special services to displaced homemakers. This target population is one which is realizing more and more that owning their own business is a viable option. We feel strongly that it is essential that each person who considers this as an option is fully informed as to its feasibility. Our programs identify the special needs of the woman business owner, and through various techniques and information provide an awareness to the woman of the realities of it all.

Last November we held a successful conference on small business that was cosponsored with Commercial Credit Corporation. Eight hundred participants spent the day looking at exhibits and going to workshops that were there to inform current and prospective business owners of the many opportunities and options open to them.

As consultants, Joan Rombro and I have compiled statistics that reinforce the necessity of programs tailored to meet the needs of potential women business owners funded through the Federal Government.

Our programs, sponsored by Baltimore New Directions for Women, provide the women participants with realistic information as to the personal qualities, financial factors, and marketing techniques that are necessary for women to operate and control their own businesses.

Our workshops focus on such topics as assertiveness training, stress, and time management, and most importantly, networking, a support system vital to the growth of a woman entrepreneur. I am sure that you are aware of the federally funded program in New York City, American Woman's Economic Development Corporation, as well as the American Association of Community and Junior Colleges, and the Women Business Owner's Program. These programs provide counseling, models, and materials that guide the potential woman entrepreneur into becoming a successful business owner.

We earnestly hope that you will continue to provide Federal funds for special programs.

Thank you for the opportunity to appear before you to testify to these needs. We will be glad to answer any questions.

Mr. HIGHTOWER. Mr. Smith?

Mr. SMITH. I have no questions at this time.

Mr. HIGHTOWER. Thank you very much, Ms. McLaughlin. We appreciate your taking the time to be with us today.

Next we would like to hear from Beatrice A. Fitzpatrick. We have your prepared statement, which we will insert in the record at this point.

[The statement follows:]

TESTIMONY BEFORE THE HOUSE OF REPRESENTATIVES APPROPRIATIONS SUB-COMMITTEE ON THE PROPOSED WOMEN'S BUSINESS ENTERPRISE BUDGET AND THE NEED FOR A WOMEN'S BUSINESS ENTERPRISE PROGRAM

Submitted by:

Beatrice A. Fitzpatrick
Chief Executive Officer
American Woman's Economic Development Corp.
1270 Avenue of the Americas
New York, N.Y. 10020
212-397-0876

April 15, 1980

TESTIMONY

OF

BEATRICE A. FITZPATRICK

Gentlemen:

My name is Beatrice A. Fitzpatrick, and I am Chief Executive Officer of the American Woman's Economic Development Corporation (AWED).

For the past 3 and 1/2 years, I have had the privilege of developing and implementing a model entrepreneurial assistance program for women. At the time we were funded by the Department of Commerce to do this, we were aware that many talented women were going into business ownership without adequate preparation for such a venture. We knew that if we could figure out how to help them, many who might otherwise fail, could succeed. But we did not know the nature of the assistance they required, nor did we know of any other programs for women entrepreneurs in the country. There were none.

We proceeded to investigate other existing related programs to see what was being done in the field - not only for women, but for entrepreneurs in general. And we learned that business schools were <u>not</u> training people to be entrepreneurs, but, instead, were training people to work in large corporations. We learned that business development organizations were focusing their efforts on loan packaging, that there were government sponsored programs in

O.M.B.E. and SBA directed toward minorities, that SBA had some good pamphlets as well as an occasional lecture open to the public, that banks were not willing to consider small business loans of less than $100,000, that there was very little venture capital around, and that most women-owned businesses would not qualify for what there was. In short, we learned that in an entrepreneurial society, there was incredibly little organized support and assistance available to entrepreneurs. This, despite the fact that entrepreneurship has become far more complex and demanding than it ever was in our founders' days.

Then we went to women entrepreneurs to find out what they needed. Having heard so much about the need for capital, we were amazed to learn that what they felt they needed most was training in the areas of business management about which they knew little, but with which they had to deal daily, and help with their specific business problems.

And this is precisely the kind of entrepreneurial assistance we developed for women. Later on, the President's Inter-Agency Task Force on Women's Business Enterprise did a national survey of women business owners, and found that the results of their survey were exactly the results we came up with - women listed management training and technical assistance as their number one need.

Now that I have met hundreds of women business owners - and served thousands of them, I realize this is not so surprising. The opportunity to run and manage anything other than their own household or their own PTA or church group has not been available to them. The

mental mind-set to see themselves as creators of capital has not been culturally engendered or supported. Creators of children, yes. Creators of capital, no. Women have been so culturally conditioned to think of capital creation and management as a male function, that every single woman who comes into our program is terrified of the financial end of her business - even if she is good in math. And this is true of women regardless of where they come from or who their families are. It is as true of women on Park Avenue as it is of women in Bedford-Stuyvesant. It is a fact that AWED has learned and had to face.

Surely the fear of making and managing money is not genetic, it is cultural. Yet women have talent, brains, ability, education, skills and training. And indeed, women are extremely entrepreneurial. They have had to be to keep food on their family's table, and clothes on their backs.

They just never got paid for doing it. They are accustomed to being their own boss; they are soulful, emotional, and want to "do their own thing." Many do not feel comfortable fitting into a corporate structure. They want to be able to express themselves while making a living.

This is not surprising. Women are creative. By nature and conditioning. When they stay home, the nature of their creativity requires them to work alone all day long -- usually only with their children. To shift from this setting to a corporate setting is difficult. Therefore,

many women who have to go to work decide to continue to express themselves, to continue to retain their individuality, and use their talent and experience to open their own business. For them, this is easier, more natural, and potentially more rewarding than trying to fit into the rules of someone else's organization.

Women, too, are trained to work very hard and very long hours. Women are trained and required to give themselves entirely to the needs of their family. This is very good training for business ownership. Women understand and are able to give this total dedication to something outside themselves, particularly if it's something of their own creation.

On the other hand, women are trained to do this for someone else's benefit - their family, their church, their community. But never for themselves.

So that many women find it extremely difficult to allow themselves to be for themselves. It goes against their whole life-long training. A woman manager who works in a large corporation can say that whatever she's doing, she is doing for the company. And that's all right.

But a woman who is in her own business has to be willing to admit that whatever she does she is doing for herself, for her own benefit - and that goes against everything society has taught her is feminine, womanly behaviour. How can you be nice, kind, good, supportive of and nurturing to others when you have to fire someone? And if that someone has a family, that's even worse. How can you be nice, kind and good when you have to demand payment of a bill due you?

How can you be nice, kind and good and issue work orders to a staff?

So you see, in addition to all the problems entrepreneurs have in our society, the problems of women entrepreneurs are even greater and more specialized.

To be successful business owners, they have to overcome a whole lifetime of training which forbids them to engage in those very activities which successful business ownership requires - from financial planning and control to hiring, firing, and supervising a staff, to selling your product objectively (after all, that requires being bold, forward and aggressive - all again "unfeminine" behavior), to collecting bills, to negotiating agreements, and finally, to learning how to price your goods or services so that you make a profit (instead of doing the kind, nurturing, supportive thing of giving it away, or selling it at a loss, behavior which again is more in line with socially conditioned notions of femininity).

And then there is the fear that if you make too much money, what man is going to want you, or love you, since he is supposed to support, protect and take care of you? And if no man wants to take care of you, what good are you, what meaning is there to your life?

These are all fears and problems women business owners face and are coping with.

Most women in our program are married, many with families. They have no wife at home to cook the supper, clean the house, take care of the kids. So that in addition to the time pressures all entrepreneurs face, the pressures of time on women entrepreneurs are even more severe.

What is fascinating, gentlemen, is that, given all these handicaps, of the four hundred twenty three women in our training program, only three have gone bankrupt.

Why? Because we have developed a program that is specifically geared to their needs.

And it works.

And also because they have taken all the drive and determination, all the love and dedication, that they invest in building a family, and turned it into building a business. The women we have met would no sooner let their business go down than they would let someone kill their children. They will cut corners, skimp and sacrifice, but they will make their business survive and grow.

They will learn to market their product.

They will learn to read a balance sheet and a financial statement.

They will learn how to determine break-even points and do cash-flow projections.

They will learn how to write a business plan, to set goals, to delegate responsibility and authority, and to do everything that is required to stay in business because above all, they love and will nurture that business the way they love and nurture their children. And nothing will stop them if they possibly can help it.

This is the kind of motivation, this is the kind of determination, that is required to keep a business going in its early years. And it's a special strength that women have.

We believe we have uncovered a gold mine for our economy - and our society - at a time when gold is in very short supply. We believe that women represent our greatest single entrepreneurial resource. And that they need to be nurtured, supported, assisted to realize their potential.

Not greatly. Because 13.6 million dollars is not a lot of money to invest in a national program designed to uncover, mine, refine and utilize a significant national resource.

The women in our program are creating and stabilizing jobs. They are creating tax revenues, and generating business for other businesses, even in an inflationary - recessionary economy. They have more than proven their worth. They, and our program, in combination, have radically altered small business failure rates. While one out of every two small businesses fail in their first two years; and four out of every five small businesses fail in their first five years, only three of the

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four hundred twenty three women we have trained since our first training session in May, 1977 have gone bankrupt. Yet almost every single woman in our porgram has started her own business from scratch, the hardest way to go into business.

This is because we have devised a training program which is specifically and totally designed to meet their unique needs as women business owners. I have attempted to describe some of the unique needs and problems women encounter as entrepreneurs. They need all the management training and technical assistance, all the support and encouragement they can get - provided of course that their idea is viable, and they have the necessary skill, capital, energy and determination.

The key elements of our program are as follows:

1. We screen applicants and admit women who appear to have success potential if given management training and technical assistance.
2. We admit them in groups of 30 to 35 women each which are at similar levels of business development, though in a wide variety of businesses. The women stay with their group throughout the training period, and report that this peer group experience and support is extremely important to their confidence and ability to stay in business.
3. We provide extremely high quality, goal-directed management training to the group in every aspect

of business management. Because we are dealing with entrepreneurs, we try to make the training as practical as possible, using highly experienced, outstanding business men and women as trainers. We provide the training over time (1½ years), to make it possible for the training to take hold, for the necessary skills and confidence to develop.

4. We provide individual technical assistance to each woman, both at the site of her business and in our headquarters, ranging from a thorough management audit of her business to specialized individualized counseling on particular problems.
5. We have a staff that is constantly available to and supportive of the women, as well as knowledgeable about business. Women tell us that whenever the going gets rough, just knowing we're there to back them up is helpful.
6. We operate in a centrally located, easily accessible business-like environment.
7. We utilize all the available pertinent resources of the community to support our program. For every federal dollar of support we get, we raise two dollars of contributed goods, services and cash. Neither the women nor the government could ever pay the true cost of such a program - yet it is desperately

needed,and is probably the cheapest job creation program and the most cost/efficient way to invest in people that the federal government has devised.

We are not training women to get on the government dole. We are not assisting women to obtain special procurement privileges. We are teaching women to be successful against all and any competition - to be the best possible managers and planners and producers. To meet competition head-on. And to help each other. To respect themselves and their chosen occupation. To believe in their own worth, courage and intelligence. To bear the traditional loneliness of the entrepreneur while developing a network of support. To overcome their fears and hesitancies, to reconcile their work roles as entrepreneurs with their social roles as women. To embrace mathematics. To respect and love money-making as well as service and product production.

This is not easy work. It takes a special dedication both to our economic system - to the importance of entrepreneurs and small business, and to the importance of women being able to realize their economic potential.

In a non-profit setting, we are teaching women to create profit-centers.

They report that because they are so new at it, because they have come so poorly prepared in terms of training and mind-set, because it requires behavior so contradictory to everything life, family and society have inculcated, they need in a training setting to be able to experience the support of others like themselves, who come to

entrepreneurship with similar strengths and handicaps - namely women - in order to work their way through their similar problems successfully.

Yet men are everywhere in our program. As trainers counselors, management analysts, business advisors, staff and Board members - sharing their knowledge, expertise and support. Women tell us this is for them a "safe" place, a place where they don't have to be afraid, a place where they can be open and honest, where they don't have to pretend to be, feel, say, act like anything but what they are. This is critical for entrepreneurs, and much more so for women entrepreneurs who feel even more isolated and anxious than their male counterparts.

There is no entrepreneurial training program in the country like ours - anywhere, for anyone.

It combines training in all aspects of small company management with on-the-spot technical assistance for each business in the program. And then, whatever help that business requires to progress, we will recruit for it. Each entrepreneur and her own company is the focus of our training, which is tailored-made to meet the needs of each training group, each different in business size and experience from other groups in the program. This is a dynamic, highly interactive program between participant and staff, where progress and problems are constantly addressed - in class, in one-to-one counseling sessions, at the business site. And this comprehensive program is

provided over time - an important feature.

It is directed to a unique market - women business owners; and our publicity has to be keyed specifically to women to reach that market. Our recent car card "Women Should Learn to Mind Their Own Business" drew over 15,000 written responses in a very short time period, a testimony both to its effectiveness and to the potential size of our market. As a result, we are counseling between 100 and 150 women a week, and admitting 200 new women to our training program every year.

We are constantly segmenting our market and developing new programs to meet needs as we perceive them.

As a result of an article in Parade magazine, a Sunday supplement which appeared in 129 newspapers in our country, we have decided to develop a national telephone counseling program to assist women who do not feel that otherwise they can be served. And now, for the first time, rural women in every part of our country will have access to business counseling.

Because of that article, women from across the country have started flying in to our office, just for counseling. They come from as far away as California, Indiana, Illinois, Massachusetts, and report that it is an incredibly helpful experience.

Women from Connecticut, New Jersey, Long Island, Westchester, Washington, D. C. and Pennsylvania are enrolled in our training

program, feeling it's worth their time to make the trip from their home to New York, and feeling too that nowhere else can their needs be filled.

Three thousand five hundred twenty eight women from across the country have written to us, asking for help, many of them pouring their business hopes, aspirations and problems into their letters. Four hundred six more have called us. A state-by-state break-down of the calls and requests is attached to this testimony.

There surely is a market for our service - across the country. After a long and careful study, sixteen federal agencies concur. They have recommended a federal Women's Business Enterprise program which emphasises that comprehensive management training, based on our model, be made available to women across the country.

Two weeks ago, two women who have been in our training program, Theresa Evans and Doris Colgate, addressed this Committee, telling of their experiences. And their great need for a program especially designed to help them. They are typical of hundreds of thousands of women who, given this kind of help, could be creating and growing businesses all across this land.

I hope you will make it possible for them to do so by approving the very thoughtful budget request submitted by SBA. And I hope you will give us the opportunity again to testify on the program's progress and implementation.

Thank you.

Mr. HIGHTOWER. You have some additional material. Is that to be considered part of your testimony?

Ms. FITZPATRICK. Those are exhibits. We happen to be, to my knowledge, the only federally funded program to do the kind of training for women entrepreneurs that we do. I thought the members of the committee would like to see a copy of our final report to EDA and two work projects, one a management audit outline, one a step-by-step guide to setting up a counseling program, and one a brief description of how women enter business. Those are things we did for SBA, and I thought the committee would like to examine those at their leisure. I would appreciate the opportunity to give verbal testimony.

Mr. HIGHTOWER. The staff will review the additional materials you have submitted. We will be happy to have you proceed as you so choose.

Ms. FITZPATRICK. Thank you.

I just want to say as a citizen that it is really exciting to have the opportunity to really participate in the legislative process by appearing to testify on a matter which is of the greatest concern to me and I think extremely important to our country. My name is Beatrice A. Fitzpatrick, Chief Executive Officer of the American Woman's Economic Development Corp. The entrepreneurial program for women was established in 1976 with an initial grant from the Department of Commerce of $124,000.

At that time nobody knew what kind of help women needed to develop their entrepreneurial potential, but it was clear all across the country, that hundreds of thousands of very talented women were going into business without knowing a lot of the rudimentary things of running a business that they needed to know in order to be successful. We did spend time investigating entrepreneurial support and programs. We learned to our surprise that graduate schools of business were training people to work in large corporations and indeed there was very little to support women entrepreneurs. At a time when being a business owner is not as easy as it was 100 years ago, and in view of all the imagination and creativity that entrepreneurship and small business-ship means in our country is as important today as it ever was in our history, it seems to me that entrepreneurs are people who should be treasured, valued, and assisted because of the contribution they can make. What we find we have uncovered is probably one of the largest untapped resources for small business growth and development in our country. I truly believe the next great wave of entrepreneurs in our country will be women. The history, the economy, and society are all coming together in such a way that women are being driven to go to work, and for many women, owning their own business and doing their own thing and being their own boss is much easier to live with, including all the difficulties at working hard, than the idea of working in a large corporation, which somehow seems cold, forbidding, and not comfortable.

Our first training group started at the end of May 1977, and since then, we have had 423 women involved in a year-round training program. We subsequently, at the end of September 1978, started a counseling program for women entrepreneurs and have counseled over 4,000 women since that time. So we have a very

good feel for the needs, the potential, and the problems that women encounter in their efforts to run their own businesses.

Mr. HIGHTOWER. What is the length of the training program?

Ms. FITZPATRICK. It started out a year, and it is now a year and a half. It is extraordinarily exciting because our approach to training is what a good manager's approach is to running a business. We have goals and objectives for training and we design all training to meet those objectives.

Our first session was taught by the best businesspeople at Harvard. They came flying down from Cambridge for two Saturdays, contributing their services to this program. There was a great deal of teaching and learning going on during those two Saturdays, probably the two most exciting days of education I have ever seen anywhere. We found the things that had been talked about in those seminars were not being practiced and implemented inside the women's businesses.

The basis for our training would work for men or women—it works. Of the 432 women who have been in this program since 1977, only 3 have gone bankrupt. If you realize these are women who do not have the foggiest notion of running a business, who do not know anything about planning and management, and who are starting their business from scratch in a society where three out of four businesses fail, and only three from this program have failed, I think it is exciting. I think we have found a formula that would work not only for women, I am sure it would work for men.

We give training in every aspect of business management. Women come to this program with no more experience than managing their home, the PTA, women who have not had the opportunity to manage organizations other than volunteer organizations, but they have ideas, skills, and dedication. They know how to work hard, and how to put in a 20-hour day. They are very creative, they see their business in the same way they see a child, and their attitude to the business is the same, they will not let anything—I know we have a good training program, but in examining why we are so successful, I have to say that at least half the reason is the people we are training. They are so determined to make these businesses successful, they will skimp, they will sacrifice, but they will not let their business go down.

As I have said, there are pluses that women bring to small business ownership, which are dedication, drive, and talent; the minuses are lack of knowledge and experience. However, the motivation to succeed is so overpowering that given some good training we find they will do anything and everything they have to do such as learn how to market their product, learn how to read a financial sheet, and figure out their break-even points. These are people who are afraid of venturing out, for the most part.

We have learned almost against our will, but after seeing hundreds of people all with the same characteristics, that we have to accept there are some differences and some special problems women have as business owners. Initially we thought women had talent and ability, and all they needed to learn was skills and they could make it on an equal basis. So we never had a discussion on how women feel about being a business owner. We talked about

marketing, and accounting, and would not let any other thing come into the discussion.

We have managers now who go to a business and analyze the business thoroughly. After that, the management analyst will come back and say this woman needs help in accounting or whatever and we will recruit business experts to work with that woman on her particular problems.

So in this program, they are getting theory on how to run a company, they are getting help with specific problems from experts, and because we take them into the program in groups of 35 which stay together throughout the program, they tell us being a part of that group is as important to them as anything they learn, because meeting 30 or 35 other women who are grappling successfully with the same kind of problems you have is very reinforcing. Entrepreneurship is extremely lonely for anyone. For women, even more so. They do not have the contacts and attitudes; they are taught their role and function is to be nice, good, kind, and supportive of others. The things that a woman needs to do as a business owner very often contradicts her social role as a woman. If she has to fire someone, she is not able to be very nice and kind. If that person has a family, that tears most people apart. If a woman has to dun someone who owes her a bill, that does not feel like feminine behavior. If a woman has to call on someone she does not know to sell, that also seems aggressive, bold, and forward. We find the women are all afraid to do that and are all inhibited; it has no relationship with intelligence or ability, it is just this conflicts with their picture of femininity. So, we have found we have to help women face the fact that in business, money is the bottom line; and being nice is swell, but not at the expense of your business. So, there is a real education process that goes on and having that go on in a setting with 30 other women who are facing the same problems, we find critical.

We have men all throughout our training program. We have men on our staff, all the management analysts who go out are people with 30 or 40 years of extensive experience in financing and managing a business, and we have not been able to find women with that experience. So all the management analysts are men, half our counselors are men, people on our staff are men, and we have some very prominent men in our society on our Board.

We have men all over this program but yet the women feel very comfortable because they feel it is a program designed for them. They feel able to admit what their problems and weaknesses are because they are doing it in a setting of other women. I would like to say that is critical for them. We have asked them how they would feel if we had men in the program and how they would feel if this were a group of men and women? They say it would not be as comfortable and as helpful to them as just having training in a group of all women.

The other thing I think which is unique about the program is its combination of theory and technical assistance. This is not just a training program where you come to learn accounting 101. The staff and participants are always in a dynamic relationship. We look at every seminar. We pick instructors who we think would be particularly successful with a group of women. Our first instructors

were the best people from Harvard, then we tried Wharton, and then the NYU School of Business. What we learned from women is that business owners and business people were the most effective teachers because they were the most practical and most down-to-earth. So we have more and more become very practical in our training program and veered away from an academic approach because we found that approach to be ineffective. What we want to do is transmit ideas into the business. We have found that the quickest and best way to do that is to have people who not only run businesses but who are successful teaching women how to run their business. We have learned that from the women; it is not just a theory we have.

If you will, look through the reports and see the kind of press the program has received. Terry Evans and Doris Colgate were here 2 weeks ago from our program and talked to you about their experiences. We have found taking highly motivated women that it takes an average of $2,000 to train a woman in a year-and-a-half program, which includes the most extensive technical assistance from experts.

I will give you an example. One night we had a tax clinic and got Arthur Young, one of the leading firms. They sent eight accountants who spoke on their specialties in taxes. Then the next time those accountants met individually for 45 minutes with each woman to go through her tax problems. There is no way these women could afford that kind of assistance and support, but that is the level and quality of what we have been able to get for them. I know we get $2 worth of contributed support for every dollar the Federal Government gives us.

For example, we have 5,000 square feet of space in Rockefeller Center and only pay a dollar a year for that space. This is the type of support this program has engendered in the country.

Mr. HIGHTOWER. Do you charge any fees?

Ms. FITZPATRICK. No, and I will tell you why. Our experience is that the women who need this the most would be the least likely to take advantage of it if there were a fee charged.

Most of the people who come to this program do not have bookkeepers and accountants, which is critical, so we have to spend time in teaching them the importance of having bookkeepers and accountants. By the end of the training, they appreciate this and would probably be willing to pay for it. I do not think they would come in the beginning if we charged fees.

Have you any other questions you would like to ask?

Mr. HIGHTOWER. I think not, Ms. Fitzpatrick. We have appreciated your testimony as well as that of the other ladies who came last week. We are convinced of the important role this Office does perform. We are glad to have the additional information you have furnished and appreciate your coming to be with us today.

Ms. FITZPATRICK. I would like to say one more thing on the record for this program. We had a car card in the subways in New York City and it said: "Women should learn to manage their own business." The design was done by Ogilvy & Mather; the space was paid for by the bus company and Exxon paid for the cost of printing that card. We got 15,000 written responses in 3 months from

that car card from women who wanted to go into business or were in business.

As a result of an article in Parade Magazine, we got 4,000 responses from all over the United States. Attached to my testimony, there is a breakdown as to how many letters and calls we got State by State. Women were pouring their hearts out in those letters. As a result, we are about to establish a national telephone program where women anywhere in the United States can call and get advice from very expert counselors on business problems they have.

There is no doubt in our mind that this is one of the brightest things going on in our economy. It is just beginning; it needs nurturing. We find the women in our program are creating jobs cheaper than any Federal job program that exists. We find investing in talented bright people that we do not train them to be dependent on the Government or get special procurement privileges, but we teach them to go out and compete in the real business world. They are creating jobs, taxes, and business for other businesses. It is the best way I have ever seen to invest in human beings because it is paying back so much.

I understand 16 Federal agencies, having examined this whole subject and how best to support the growth of women as business owners, have decided the best way to do that is to have training programs based on our models in cities across the country. Their request for $13.6 million is very thoughtful and one that will work if it is well-administered, and if the groups they give the money to are carefully selected for ability to produce results. I think it is going to be and can be one of the most exciting new initiatives that the Government has undertaken, and I urge you to support the Business for Women's Enterprise.

Mr. HIGHTOWER. Thank you.

TUESDAY, APRIL 15, 1980.

FEDERAL JUDICIAL CENTER

WITNESS

FRANK M. GRAVES, FRANK GRAVES ASSOCIATES

Mr. HIGHTOWER. Mr. Frank Graves, we have your prepared testimony which we will insert in the record at this point. We will be glad to hear from you.

[The statement follows:]

STATEMENT

OF FRANK M. GRAVES, ECONOMIST

FRANK M. GRAVES ASSOCIATES
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SUITE 211
WASHINGTON, D.C. 20009
TEL. 202-667-6673

TO THE SUBCOMMITTEE ON STATE, JUSTICE, COMMERCE AND THE JUDICIARY

OF THE HOUSE APPROPRIATIONS COMMITTEE

CONCERNING THE FEDERAL JUDICIAL CENTER COURTRAN COMPUTER SYSTEM

APRIL 3, 1980

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

My name is Frank M. Graves. I am a consulting economist with many years of experience in analyzing public policy issues and the benefits and costs of alternative ways of doing things. I have particular expertise in data processing systems and programming, and have worked extensively also in the field of judicial administration.

My purpose here today is to discuss the COURTRAN data processing system that is being developed by the Federal Judicial Center. As you know, I was hired by the Federal Judicial Center in September 1979 to do a benefit/cost study of COURTRAN. The idea was to find out if the benefits outweighed the costs. This was at the insistence of the Administrative Office of the U.S. Courts, which is supposed to take over COURTRAN and operate it. The A.O. wanted to be sure that they could ask you in good conscience for funds to operate COURTRAN. The Judicial Center said as much to me when I was hired.

My contract to study COURTRAN was abruptly cancelled without explanation after I had submitted 2 unfavorable memoranda to the Federal Judicial Center. It had become clear to me that the Center had a serious problem with COURTRAN and I knew I was onto something. Suddenly the Judicial Center terminated the contract, but I have kept on studying COURTRAN anyway, to figure out what the problem was. The problem is that COURTRAN is centralized here in Washington but should be decentralized, using minicomputers in the courts.

COURTRAN is an umbrella term that refers to all the data processing of criminal, civil, appellate, and bankruptcy caseflow management, central violations bureau operations, property inventories, word processing/electronic mail, statistical reporting to the A.O., and LEXIS computer-assisted legal research.

The impetus to develop COURTRAN came from the 1974 Speedy Trial Act. The Federal Judicial Center already had a minicomputer installed in the northern Illinois court. Their attempts to program it were inconclusive. They found it was inconvenient and costly to send experts from Washington out to Chicago all the time to get the thing operational, so they abandoned it.

That was a fatal mistake, because the Federal Judicial Center then committed itself to the obvious alternative which was centralization.[1] They did this without anything like an adequate economic or technical evaluation. The decision to centralize was made virtually in the dark, and the results show it. Centralization was a completely wrong and backward step for these reasons:

- o First, the data in each court are unique to that court. The Speedy Trial information, court dockets, and all the rest are needed nowhere else but in the court where the data originate. Centralization of COURTRAN flies in the face of this underlying reality;

- o Second, minicomputers can be bought for less than $100,000 each, so every court could have one for the same amount of money as has been spent on the big machines which can serve only the few, biggest courts;

- o Third, centralization requires very expensive interactive time-sharing software which is costly to maintain as well as create;

- o Fourth, centralization requires telecommunications links which are so costly that over half the courts--the smaller ones--are permanently excluded from any benefits that COURTRAN might confer;

- o Fifth, no provision has been made to train anyone from the Administrative Office in the COURTRAN operation, and it will be necessary for the A.O. to acquire its own large computers to take over the operation in duplicate for awhile from the Federal Judicial Center. Minicomputers would avoid this.

  In other words, COURTRAN is virtually not transferable to the Administrative Office. Nihan of the Federal Judicial Center told me he believed only the Center was competent to operate COURTRAN. The Administrative Office has to pay lower salaries than the Center and this is held to be one reason the A.O. does not have sufficiently competent experts available.

  If Nihan be correct, it means the Federal Judicial Center knowingly developed a COURTRAN so centralized, large scale and complex that only the Center could ever operate it--but this is in violation of the Congressional charter under which the Center functions as a research and development agency.

The Federal Judicial Center should not have abandoned the northern Illinois minicomputer experiment. They should have moved that small computer to Washington and programmed it. To do this they needed to put 2 expert staff members out in Chicago with a terminal and telecommunications link to the minicomputer here, plus several more staff experts at this end. They should have involved the A.O. in the process. They should have decentralized the Federal Judicial Center to the courts instead of the other way around. The Center now has some 40 experts all here in Washington instead of out at the several courts working on minicomputers.

The goals of COURTRAN should be to include the small courts as well as the big ones, to concentrate on Speedy Trial accounting, to train A.O. staff for transfer of COURTRAN, and to keep COURTRAN operating systems as simple as possible, using the decentralized minicomputer approach.

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[1] A tri-partite regional scheme was briefly considered, with headquarters to be in Los Angeles, Chicago and Washington, D.C. The fully centralized scheme is still under development and is headquartered in Washington, D.C.

The existing centralized COURTRAN, which has cost $22 million and 6 years to develop, is only now barely operational and can never be extended to all the courts because of telecommunications cost barriers. I very strongly recommend that centralized COURTRAN be unbundled into local minicomputers in each court and the large computers be disposed of. They are just a few years old and have a value which, with reprogramming of the funds now committed to telecommunications and computer space would substantially finance the changeover.

The benefits and costs of the centralized system can never be so favorable as they would be for the decentralized system. The Judicial Center will object, but I urge this Subcommittee to direct the Center and the Administrative Office[2] to work up a plan for converting to fully decentralized COURTRAN and see what happens. There is no time like the present, because they are just starting work on computerizing the civil dockets. On minicomputers, this would benefit every court.

The experience with centralized COURTRAN has generated much useful information and programs which will be very helpful in unbundling. It will be necessary to write off the experience mostly as a failed experiment, however. Once that has been done, and the plan for converting to minicomputers worked out (say, in 90 days--give them a deadline), you will be pleased, I am sure, at how reasonable COURTRAN will begin to look.

The U.S. Federal courts deserve at least this much--a plan for conversion--to show what is involved and how far off-track the existing system is.

If you have any questions, I will be glad to try to answer them.

ATTACHMENTS

I--which shows that in 1974 the Federal Judicial Center received competitive bids for minicomputers and decided that every court could have at least one for a cost of less than $100,000 per court. In other words, all the approximately 100 courts could have had its own minicomputer for a total cost of less than half what has been spent on centralized COURTRAN to date!

II--which shows that according to the GAO, centralized COURTRAN to date has cost about $22 million!

III--which shows that according to the A.O., the fully-loaded cost per year of a Federal district court judgeship is only $600,000. In other words, the money spent on COURTRAN to date would have fully paid for some 36 Federal judges last year. One asks, will centralized COURTRAN do as much good for the courts as 36 judges, in reducing backlog and complying with the Speedy Trial Act, for suitably equivalent time periods?

IV--which shows that the Federal Judicial Center considered the avoidance of local court staff working on COURTRAN to be an advantage, instead of the disadvantage (to eventual transfer) that it has proven to be;

V--which shows that there is an inherent commitment to continued high telecommunications cost if more and more courts are brought on-line; and

VI--which shows the Administrative Office requested (internally, initially) that a benefit/cost study of COURTRAN be performed.

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[2] The Center right now has Jack Buchanan doing an $18,000 contract on "future configurations" of COURTRAN, but it was this same individual who originally designed the centralized COURTRAN system so his work must be considered biased.

ATTACHMENT I

FJC COURTRAN II PAPER (9/74)

(EXTRACT)

VI. COURTRAN II Funding Requirements

A. EQUIPMENT COSTS AND OPERATING EXPENSES

The Center has transmitted copies of our computer hardware and software technical specifications to selected computer manufacturers and requested each of them to submit bids for our review. Analysis of those responses received to date indicates that we will be able to procure a mini-computer suitable for COURTRAN II operations for less than one hundred thousand dollars. The exact system cost will be dependant upon the number of terminals desired by the court and the amount of disk storage required by the individual user courts.

The pilot courts will provide all necessary housing for the computer and also those personnel required to enter the courts information into the computer at no cost to the Center. Individual courts will also be responsible for furnishing electrical power, air conditioning, and support equipment such as desks and telephones.

The only costs over and above the initial procurement of the computer itself will be a monthly maintenance charge of approximately $1,200 per month ($14,400 per year) and the salary of a computer operator/technician capable of running the system for the court during pilot operations.

The annual salary for such an individual should be in the vicinity of $22,000 per year.

All of the equipment purchased would be covered by a manufacturers warranty for two or three years. After that time we estimate that approximately $1,000 per year would be required for equipment replacement.

62-321 O - 80 - 32

B-193861

ATTACHMENT II

GAO REPORT B-193861 (6/21/79)

Costs of developing and operating COURTRAN II

(EXTRACT)

During the fiscal 1976 appropriations hearings, the Federal Judicial Center requested immediate appropriations of about $7 million to accelerate procurement of ADP equipment and expand COURTRAN II development for the U.S. courts. The following schedule indicates the total dollars spent on the COURTRAN program, including the 4 years since those appropriations hearings and the enactment of the Speedy Trial Act. Also shown are the amounts appropriated for COURTRAN II for fiscal 1979 and requested for fiscal 1980.

Fiscal year	Equipment and supplies	Other services	Rent/Communications maintenance	Salaries	Total
1972	$ -	$ 28,920	$ 597	$ 82,000	$ 111,517
1973	708	81,370	63,443	107,000	252,521
1974	164,251	36,343	43,902	168,000	412,496
1975	1,034,476	79,414	68,054	291,000	1,472,944
1976	4,129,222	244,605	297,977	601,000	5,272,804
1977	2,820,050	352,895	381,755	744,000	4,298,700
1978	369,023	435,592	957,937	916,000	2,678,552
	8,517,730	1,259,139	1,813,665	2,909,000	14,499,534
1979	690,000	583,000	1,048,000	1,182,000	3,503,000
1980	455,000	378,000	1,318,000	1,182,000	3,333,000
Total	$9,662,730	$2,220,139	$4,179,665	$5,273,000	$21,335,534

Although the Center has received substantial appropriations to implement COURTRAN II, only a few of the planned 65 U.S. courts will have the criminal case-flow segment installed when the 100-day criminal case processing rule of of the Speedy Trial Act takes effect in July of this year. However, pending legislation may modify this date.

ESTIMATED UNITED STATES FEDERAL JUDICIARY EXPENSES
CLASSIFIED BY SELECTED TYPE OF COURT
For the 12 Months Ended September 30, 1979*
(Exclusive of the Supreme Court)

	Authorized Positions	Total Budget Authority	Court of Customs and Patent Appeals	Customs Courts	Court of Claims	Courts of Appeals	District Courts	Bankruptcy Courts
Court of Customs and Patent Appeals.....	36	$ 1,121	$1,121	$.....	$.....	$	$	$ .....
Customs Court.....	114	3,095	.....	3,095	.....	.....	.....	.....
Court of Claims.....	111	3,570	.....	.....	3,570	.....	.....	.....
Courts of Appeals, District Courts and Other Judicial Services:								
Salaries of Judges.....	648[a]	41,458	.....	.....	.....	9,083	32,375	.....
Salaries of Supporting Personnel.....	8,945	175,495	.....	.....	.....	18,724	156,771	.....
Defender Services.....	295	24,800	.....	.....	.....	4,061	20,739	.....
Fees of Jurors and Commissioners.....	.....	24,750	.....	.....	.....	.....	24,750	.....
Travel and Miscellaneous Expenses.....	.....	35,514	.....	.....	.....	3,083	32,431	.....
Salaries and Expenses of Magistrates.....	533	19,441	.....	.....	.....	.....	19,441	.....
Bankruptcy Courts, Salaries and Expenses.....	1,540	36,658	.....	.....	.....	.....	.....	36,658
Space and Facilities.....	.....	98,400	459	1,353	1,370	9,263	80,991	4,964
Furniture and Furnishings.....	.....	8,500	.....	.....	.....	1,352	6,608	540
Furniture and Furnishings (no-year).....	.....	4,200	.....	.....	.....	558	1,865	1,777
Pretrial Services Agencies.....	.....	5,000	.....	.....	.....	.....	5,000	.....
Total for Courts of Appeals, District Courts, and Other Judicial Services.....	11,961	474,216	459	1,353	1,370	46,124	380,971	43,939
Administrative Office of the U. S. Courts.....	482	12,899	42	119	132	1,234	10,196	1,176
Federal Judicial Center.....	113	8,279	27	76	85	792	6,544	755
TOTAL.....	12,817	$503,180	$1,649	$4,643	$5,157	$48,150	$397,711	$45,870

*All dollar figures omit (000).

a - 516 district court authorized positions
132 circuit courts of appeals authzd. posns.
648

150 district court senior judgeships
55 circuit courts of appeals senior judgeships
853 total personnel positions at judgeship level covered by $41,458,000 budget authority.

Prepared in: A.O. Budget Branch
Date: November 29, 1979

FULLY LOADED COST PER DISTRIC COURT AUTHORIZED + SENIOR JUDGESHIP:

$$\frac{\$397,711,000}{516 + 150} = \$597,164.$$

COURTRAN COST OF $22 m divided by $\frac{\$600,000}{\text{judgeship}}$ = 36 judgeships equivalent.

ATTACHMENT III

ATTACHMENT IV
FJC STAFF PAPER 78-4 (EXTRACT)

III. DEVELOPMENT APPROACH

At the very outset of the Courtran II design effort the Federal Judicial Center made several significant decisions regarding the subsequent development methods and operational philosophies to be employed in completing the overall Courtran II system. These decisions involved the types of computing hardware to be acquired to support the project, the management and software development techniques to be employed, and the type of telecommunications network to be implemented.

The Judicial Center decided to centralize all major computer hardware components, other than terminals and communications concentrators, required to support each of the 15 major applications identified for potential development (please see Chart One). This decision was dictated by several factors including the requirement for major hardware component redundancy to ensure some degree of system availability for high priority users, ease of hardware expansion as the number of users and applications increased, and ease of hardware maintenance, both corrective and preventative. Of secondary importance was our desire to avoid the need for trained technical personnel in each participating federal court and the reduced staff required for operation of centralized computer facilities.

With regard to computer hardware we also decided that large timesharing computers were the best equipment for satisfying the nationwide needs of the federal courts. The systems we desired to implement would, for the most part, be on-line, inter-active in design and tutorial in operation. This approach would allow us to build substantial intelligence into the applications themselves, thereby identifying and correcting data input anomalies at the earliest possible moment, while at the same time reducing the need for extended formal training of user personnel. The Center specifically examined and rejected networked mini-computers and large partitionable computers to meet federal court needs. Likewise, we felt batch processing of remotely submitted jobs would not provide court users with the quality of inter-active support needed to operate sophisticated applications on a nationwide basis.

With regard to software development the Center made two decisions which would guide our efforts over the next several years. The first of these decisions was to undertake all software design and development efforts with multi-disciplinary teams of lawyers, computer scientists, psychologists and technical writers. This decision reflected our desire to have each member of each project design and development team work on generic aspects of systems development, such as data base management techniques or terminal dialogues, which would be common to

ATTACHMENT V

EXECUTIVE OVERVIEW COURTRAN II DATA COMMUNICATIONS STUDY (EXTRACT)

RICHARD L. DEAL AND ASSOCIATES, INC., MAY 1978

Table 4.1:

Annual System Cost Comparison[a]

Year	VAN[b]	Multiplexor
1978	$ 353,000	$ 426,000
1979	547,000	546,000
1980	820,000	705,000
1981	1,045,000	868,000
1982	1,180,000	977,000
1983	1,316,000	1,108,000

a - Comparison based on annually increasing quantity of transmissions as more and more courts are brought on-line;

b - Value Added Network.

ATTACHMENT VI (EXTRACT)

UNITED STATES GOVERNMENT

memorandum

DATE: July 23, 1979

REPLY TO ATTN OF: Norbert A. Halloran

SUBJECT: Comments on a proposed amendment to Federal Rules to permit replacement of court "docket books" by automated (electronic) docket records.

TO: Carl H. Imlay

At your request, I have prepared an analysis of this subject for the Committee on the Administration of the Criminal Law.

SUMMARIZATION

Federal Rules of Procedure (Civil Rule 79(a), Criminal Rule 55, and Appeals Rule 45) require that "docket books" be maintained as the courts' official docket records. A rules amendment is proposed that would permit replacement of docket books by an automated docket records service such as the Federal Judicial Center is now furnishing to some courts from its computer center in Washington, D.C.

For a number of reasons, the Judicial Conference may not wish to consider this question until some later time. Docket information stored outside the district on the data base of a research and development project cannot be relied upon as the official record of a federal court. Section 457 of Title 28 requires court records to be kept at the "place where court is held". The Center's statutory function is limited to research and development. It cannot act as the recordskeeping agency for the courts. 28 U.S.C. §620 and 31 U.S.C. §628. The Administrative Office, with Judicial Conference Approval, could assume such a responsibility inasmuch as the AO's statutory function includes administrative support to the courts and the Director of the AO is the administrative officer of every court except the Supreme Court. 28 U.S.C. §604 (a). (However, FRAP 10 (a) would have to be changed to permit the AO Director, as legal records custodian, to certify copies of district court dockets for purposes of the record on appeal).

Any changes in the Federal Rules, or in Section 457, designed to sanction automated or electronic media records as official court docket records should not be considered unless and until a central computer installation capable of furnishing such a records service is established in the Administrative Office.

To obtain budgetary approval of the computer equipment and staff needed for such a service program, the AO must convince the Congress that automation of court dockets represents a beneficial and cost-effective use of federal funds. This step may prove to be difficult. Based upon the Center's experience, computerized docketing is at least three to four times more expensive than manual docketing. If this automation (now costing 2 to 3 million dollars/year for pilot court criminal dockets) were extended to all docketing in all courts it would add 15 to 20 million dollars a year to the cost of federal court operations. Before AO could propose a system that could generate administrative cost increases of this magnitude, it would have to complete a detailed cost-benefit analysis not only of computerized docketing but any practical alternatives to this method.

Mr. GRAVES. I am a consulting economist and was retained to look at the very expensive COURTRAN data processing system which I know you are familiar with.

After I developed several unfavorable data, my services were abruptly terminated. I called on Mark Cannon, before I was able to get a response to my inquiries. In a subsequent letter he offered to deal with me and to settle this thing, as it were out of court. As far as my advisers go, their view about this is that it is almost an attempt at bribery.

In any case, my real purpose is to report what I learned of that system. They have spent, as you know, $22 million in building that system. The problem with it is that it is backwards. I regret having to say that, but it is backwards. Virtually all the data they are processing in each of the several courts around the country is unique to that court. There is no purpose whatsoever in bringing it into Washington by telecommunication lines except for the convenience of the Center in developing what I will correctly call an "overly elaborate data processing system." When you look at the testimony in which Mr. Levine and others of the Judicial Center were asked about transferring this to the administrative office, I was told by people in the Center that there is nobody in the administrative office able to take over the system because it is too complicated. Over the period of years, they have failed to deliver. What I urge the subcommittee to do, and I have carefully examined this, is to require the Judicial Center within a period of 60 to 90 days to deliver a program to you for unbundling that system. They have learned a great deal that is valuable in building this fully centralized data processing system. You should require them to devise a program to unbundle it, to use small machines in all the courts causing avoidance of costs which will continue indefinitely as long as they continue their present system.

The second advantage is they will be able to transfer the minicomputer concept out into the field where the data are and need to be processed.

The third thing is that the advantage of doing this now is that the benefit from cutting in at the time where there is a civil process just going onto the machine will avoid making the enormous commitment of civil proceedings into these computers. Instead of awarding them another $4 million to $5 million to continue doing what they have been doing wrong for the last years, say instead, "Not a penny more until you can show us how you can unbundle this." They said in February in their testimony, "We have a huge cost already tied up, $20 million or more tied up in this system. A few more dollars, please, so we can start raising the rate of return."

I say bundle them because the existing system has a high disposal value if they will in fact dispose of it and translate that disposal value into a minicomputer concept, unbundled, where each individual court not only has its own equipment at a fraction of the total of what they have here in Washington, without any of the telecommunications hassle, and certainly with the great advantage of having people in the individual courts who are competent to maintain that equipment and software.

Mr. HIGHTOWER. Will you tell me please what you mean by "unbundled"?

Mr. GRAVES. That is a word which became, in the computer business, of fairly wide use at the time that IBM was leasing its machines with all the various features and the software support and all the rest of it. The unbundling that I am talking about would be to say those courts which do not need all the elaborate features that COURTRAN provides, since that is an umbrella term and covers about 15 things, unbundling would give individual courts only what they need. The machines in those courts would be equipped to do the things they need most, such as speedy trial accounting and anything else which a particular court may need.

Then the smaller ones which will never be able to participate in data processing benefits so long as they have the high cost of telecommunications, can start participating, too, on the kinds of things that would benefit them.

The only reason that Dr. Cannon has been able to think of which would possibly justify the highly centralized system which was acquired without competitive bid, is the simple fact that possibly, he said, courts would never have gone to computer assistance unless we had done it this way. "Do you think there is any value to that?", he asked me. I said there could be, but there did not have to be. If you talk to people at the Center, they say, "We tried the minicomputer program Day 1 out in Chicago, and had to send repairmen there to fiddle with the machine." They never did tell me why they did not move that machine here to Washington and fiddle with the machine here, and when it was ready, send it back to Chicago. They could have had a small warehouse here with 10 or 15 machines, each one linked with a particular court. To make that court's data processing much easier, each machine could be set out as needed. While that was going on, they could have been training people from the administrative office. What they did do was assemble a very large piece of machinery and develop a system so complex that they say they cannot transfer it to the administrative office and they have made no effort in 5 years to transfer it. So if the AO is to take it then the transfer will require the administrative office to buy similar $5, $10, $15 million hardware to duplicate that which already exists in the Judicial Center.

All of that could be avoided if they would go to the minicomputer concept. The justification to require them to develop a program immediately to go to minicomputers—first, they are just ready to start throwing the civil case management system onto their big machinery; further money poured down the drainpipe. They can avoid that if they move on to a minicomputer concept. And the second thing is if they can transfer it when they get through without buying duplicate machinery, because the minimachines would be out in the field in the first place.

They have basically given a very inadequate analysis ahead of time to the training consequences of what they were doing. When they called me in, it was an ex post type justification which is impossible to deliver.

Mr. HIGHTOWER. Thank you very much, Mr. Graves. I am sure this testimony will be helpful to us.

TUESDAY, APRIL 15, 1980.

BUREAU OF PRISONS

WITNESS

ALVIN J. BRONSTEIN, AMERICAN CIVIL LIBERTIES UNION, NATIONAL PRISON PROJECT

Mr. HIGHTOWER. Mr. Alvin Bronstein, we have your testimony, which we will insert in the record at this point. You may proceed as you choose.

[The statement follows:]

THE NATIONAL PRISON PROJECT

of the American Civil
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COMMENTS

of

ALVIN J. BRONSTEIN
Executive Director

The National Prison Project
of the
American Civil Liberties Union Foundation

Before the

Committee on Appropriations
Subcommittee, State, Justice,
Commerce and the Judiciary

Concerning

APPROPRIATIONS REQUEST OF THE FEDERAL PRISON SYSTEM, FISCAL YEAR 1981

April 15, 1980

Steering Committee
William H. Allen
Ben Bagdikian
Roach Brown
Haywood Burns
Nancy C. Crisman
Bruce Ennis
Monroe Freedman
Philip J. Hirschkop, Chair
Edward Katkin
Robert B. McKay
Jerome G. Miller
Ronald T. Phillips
Faith Seidenberg
Melvin L. Wulf

I am pleased to appear before the Subcommittee to comment on the Federal Bureau of Prisons' Appropriation Request for FY 81. I am appearing in my capacity as Executive Director of the National Prison Project of the American Civil Liberties Union Foundation. We welcome this opportunity to raise what we feel are very critical questions regarding the Bureau of Prisons' budget request.

The National Prison Project seeks to strengthen and protect the civil and constitutional rights of adult and juvenile prisoners, to improve conditions in the nation's prisons and jails, and to develop rational, less costly and more humane alternatives to traditional incarceration. We have also engaged in efforts to devise model prison procedures and regulations.

In furtherance of the activities described above, the Project's staff attorneys and other staff members are engaged in the representation of prisoners incarcerated in penal institutions throughout the country. The Project has been and is presently involved in many important cases concerning the rights of prisoners. In addition, the Project's staff has been consulted by correctional officials and legislative committees in various states.

I personally have been a consultant to the National Institute of Corrections of the Department of Justice, the Minnesota Department of Corrections, and to the American Bar Association's Joint Committee on the Legal Status of Prisoners as well as others.

This is the third consecutive year we have testified at these hearings. This year we will not comment point by point on the Bureau's appropriations request. We will instead try to focus on a few issues that we believe should command your attention. It is unfortunate that we are forced to focus on many of the same issues that we have criticized each time we have testified before this committee. For example, we have repeatedly pointed up critical deficiences in the areas of the Bureau's Medical Services, drug treatment programs, the slowness in closing and phasedown of the ancient and massive penitentiaries at Atlanta and Leavenworth, and Prison Industries program. Although the Bureau of Prisons has, in some cases, begun to move to meet some of its shortcomings in these areas it has not moved to remedy many of the most fundamental and glaring problems.

Prison Industries and Jobs

The Federal Prison Industries, Inc. was created by Congress in 1934 and is a wholly owned government corporation. The statutory mandate for Federal Prison Industries, Inc. is to "provide employment for all physically fit inmates" in prisons under the authority of the Bureau of Prisons. Title 18 U.S.C. § 4122 requires the corporation to "provide for the vocational training of qualified inmates without regard to their industrial assignment." Section 4123 makes it the corporation's responsibility to provide such forms of employment as will give inmates a "maximum opportunity to acquire knowledge and skills in trades and occupations which will provide them with a means of earning a livelihood upon release."

Out of an average 1979 daily population of 26,077, only 6325 inmates were working in the F.P.I. program on an average date. Thus, roughly 75 percent of those eligible and available for participation in the industries program are not able to be assigned to this program. (1978 UNICOR Annual Report data.)

Although the Corporation is making some attempts at updating the prison industries program as evidenced

by the inclusion of several new more marketable industries, the Corporation still fails to provide a substantial number of the prison population with the training or work experience necessary to obtain decent employment in the outside world. Congress has contributed to the failure of the industries program by so narrowly limiting the FPI market. Legislative restraints that limit the opportunities for prisoners by excluding private business has been sharply criticized.[1] A survey of manufacturers, labor union officials and legislators concluded that many favor change.[2] Minnesota and Indiana have repealed their state use requirements.[3] Congress should do the same.

Medical Services

For the past three years we have critized the Bureau of Prisons for its willingness to relegate the compliance of minimum health standards to long range goals rather than immediate needs. The most obvious, most criticized and most health threatening deficiency is the failure of the Bureau to provide 24-hour medical

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1. President's Commission on Law Enforcement and Criminal Justice, The Challenge of Crime in a Free Society 176 (1967); N. Morris & G. Hawkins, The Honest Politicians's Guide to Crime Control 112 (1969); NAC § 11.10 (1973)

2. West & Stratton, The Role of Correctional Industries 63 (1971)

3. Minn. Sess. Laws C512 § 3 (1973); Ind. Stat. Ann. § 11-1-1.1 (1973)

coverage in many of its closed institutions despite uniform acceptance of the need for this coverage by every professional group in the country. Twenty-four hour medical coverage is also a standard that has been ordered by numerous courts. Nevertheless, out of the Bureau's most secure 29 institutions (Penitentiaries and Federal Correctional Institutions) only 15 provide 24-hour medical coverage: out of the 23 Federal Correctional Institutions only 10 provide 24-hour coverage.[4] These figures have not changed dramatically over the last three years and there is nothing in this year's budget request that indicates an effort to remedy this situation.

For years the Bureau of Prisons has pointed to the Springfield Medical Center as its model. Yet, as the

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4. Bureau of Prisons Institutions that provide 24-hour medical services are: FCI, El Reno, Oklahoma and FCI, Fort Worth, Texas (South Central Region); USP, Atlanta, Georgia, FCI, Butner, North Carolina, FCI, Lexington, Kentucky, FCI, Memphis, Tennessee (South East Region); MCC, Chicago, Illinois, USP, Leavenworth, Kansas, USP, Marion, Illinois, USMCFP, Springfield, Missouri and USP, Terre Haute, Indiana (North Central); FCI, Alderson, West Virginia, FCI, Danbury, Connecticut and USP, Lewisburg, Pennsylvania (North East Region); MCC, New York, New York; FCI, Lompoc, California, FCI, Pleasanton, California, MCC, San Diego, California, and FCI, Terminal Island, California (Western Region).

Bureau points out, a recent Joint Commission on the Accreditation of Hospitals' inspection reports that the numbers of extremely critical staff has fallen to dangerous levels and that medical equipment at the facility is grossly inadequate. While we endorse the Bureau of Prisons' request to correct these life threatening deficiencies we are concerned that the Bureau allowed conditions to deteriorate so badly and that the Bureau's own internal audit procedures failed to pick up and correct these problems. Also an issue of extreme concern is that the number of Bureau of Prisons institutions accredited by the Joint Commission on Accreditation of hospitals has not dramatically increased over the past year.

It is our opinion that the compliance with minimum medical standards is an absolute and immediate necessity. Therefore, the Bureau should be required to file a plan with this Committee explaining in detail how it intends to bring each of its facilities into compliance with these standards.

Drug Abuse Program

Drug dependency and abuse and the need for effective treatment for those who experience it is a national problem.

The Bureau admits that one out of every three prisoners incarcerated in the Bureau in 1979 had a record of some drug usage prior to or at the time of incarceration. In 1979 as in previous years drug related offenses constituted the second largest category of crimes for which people were incarcerated. Yet, at the end of fiscal year 1979 only 2955 prisoners were involved in the Bureau's in-care drug program and by February 1 of this year the number had fallen even further to 2585.

In addition to questions about the number of people participating in the Bureau's drug program, neither its budget request, nor its recently published Drub Abuse In-Care Manual give any indication that many of the qualitative deficiencies in the programs which do exist have been corrected. Neither indicates that Bureau staff involved in drug abuse treatment have any specialized training in this area. Neither provides any quality control over the treatment modalities to be used in the various institutions. Instead both the Bureau's budget and its Manual skirt all of the main issues and talk about things such as staffing patterns, required hours of counseling or hours spent in orientation sessions rather than

the qualifications of staff or the type of treatment or counseling to be used. Thus, while the Bureau has produced more procedures to govern drug abuse treatment, nothing it has submitted indicated that drug abuse treatment has actually or will in the upcoming fiscal year be improved. Congress should demand some accountability from the Bureau on this issue rather than just approving their budget request year after year.

Youth Corrections Act (YCA)

Enacted in 1950, the YCA was an enlightened approach to the sentencing treatment of young offenders. The YCA recognizes the susceptibility of youth and the perceived need for innovative approaches to the treatment of youthful offenders. This was sought in several ways: by more carefully evaluating the individual needs of those sentenced under the Youth Corrections Act; by providing housing separate from adult offenders; and by requiring that the rehabilitative programs be carefully suited

to meet the special needs of the youthful offender. In the last several years there have been a number of cases in which the courts have uniformly found that the Bureau has failed to provide any of the services to YCA offenders that are required by the Youth Corrections Act and instead has treated them no differently than the rest of the prison population. In the most recent case of Johnson v. Bell, C.A. No. 8-71747 (E.D.Mich. 3/12/80) the court went so far as to find that as a matter of policy the Bureau was intentionally subverting this mandate by Congress. In Brown V. Carlson, 431 F.Supp. 755 (E.D.Wis. 1977), the first case in which the courts thoroughly analyzed the way in which the Bureau treats YCA offenders, the Court found that the Bureau was making no effort to treat those sentenced under the Youth Corrections Act differently from adults, and they had not even bothered to make any efforts to keep these unique and vulnerable individuals separate from the general population. In Watts V. Hadden, 469 F.Supp. 223 (D.Col. 1979), some time after Brown, the federal District Court in Colorado found that despite the mandate in Brown the Bureau had not significantly changed its practices. Thus in Watts the courts found that the YCA offenders were still not being separated from the adult population,

were receiving no specialized training or treatment and were being treated by the Parole Board according to the same guidelines as all of their offenders. Shockingly, in a decision rendered only last month Johnson v. Bell, supra, the federal District Court in Michigan found that despite both of these decisions the Bureau still had not taken any corrective action.

Nothing in the Bureau's proposed budget indicates that in the upcoming fiscal year they intend to comply with the Congressional mandate contained in the Youth Corrections Act. The critical point is that Congress has decided what constitutes an effective correctional program with respect to those sentenced under the Youth Corrections Act and the Bureau of Prisons has consciously ignored that Congressional mandate. In his October 1978 testimony before the Judiciary Committee at the Oversight hearing on Federal Bureau Policies Regarding Placement of Juveniles and implementation of YCA, Bureau of Prisons director Norman Carlson admitted that the Bureau did not feel "particularly constrained by the YCA." He further stated

> "'The bottom line, very candidly, Mr. Chairman, is I personally believe the Youth Act should be repealed,' and "While the Youth Corrections Act was a landmark

> at the time of its passage, we believe that experience and changes which have taken place over the years have caused the Act to outlive its usefulness. We support those provisions of the proposed legislation to revise the Federal Criminal Code which would eliminate the Youth Corrections Act.'

In essence, the Bureau of Prisons has decided that they do not agree with the legislation passed by Congress and do not feel compelled to implement the Act. There is no evidence in the FY 81 budget request which leads us to believe that there is a systematic plan that would bring the Bureau into compliance with the 30-year-old law.

Closing Atlanta and Leavenworth

There is very little to be said about the penitentiaries at Atlanta and Leavenworth that has not already been said many times. The prisons at Atlanta and Leavenworth now have approximately 1375 and 1000 prisoners respectively. They both are approximately 100 years old with huge, cavernous cellblocks (in spite of some progressive recent renovations at Leavenworth). By any modern professional

Mr. BRONSTEIN. Our work is much more familiar to Mr. Kastenmeier's oversight committee, but we are the largest organization in the country that regularly monitors the prison system.

I am pleased to appear before the subcommittee to comment on the Federal Bureau of Prisons' appropriation request for fiscal year 1981. I am appearing in my capacity as Executive Director of the National Prison Project of the American Civil Liberties Union Foundation. We welcome this opportunity to raise what we feel are very critical questions regarding the Bureau of Prisons' budget request.

The National Prison Project seeks to strengthen and protect the civil and constitutional rights of adult and juvenile prisoners, to improve conditions in the Nation's prisons and jails, and to develop rational, less costly, and more humane alternatives to traditional incarceration.

The project has been and is presently involved in many important cases concerning the rights of prisoners. In addition, the project's staff has been consulted by correctional officials and legislative committees in various States. I personally have been a consultant to the National Institute of Corrections of the Department of Justice, the Minnesota Department of Corrections, and to the American Bar Association's Joint Committee on the Legal Status of Prisoners.

This is the third consecutive year we have testified at these hearings. This year we will not comment point by point on the Bureau's appropriations request. We will instead try to focus on a few key issues: medical care, drug program, prison industries, and the phasedown of the two older penitentiaries, Atlanta and Leavenworth.

Although the Bureau of Prisons has, in some cases, begun to move to meet some of its shortcomings in these areas, it has not moved to remedy many of the most fundamental and glaring problems.

The Federal Prison Industries, Inc., was created by Congress in 1934 and is a wholly owned Government corporation. The statutory mandate for Federal Prison Industries, Inc. is to "provide employment for all physically fit inmates" in prisons under the authority of the Bureau of Prisons. Title 18 U.S.C. section 4122 requires the corporation to "provide for the vocational training of qualified inmates without regard to their industrial assignment." Subsequent sections make it the corporation's responsibility to provide such forms of employment as will give inmates a "maximum opportunity to acquire knowledge and skills in trades and occupations which will provide them with a means of earning a livelihood upon release."

According to the Bureau's own figures, out of an average 1979 daily population of 26,077, only 6,325 inmates were working in the F.P.I. program on an average date. Thus, roughly 75 percent of those eligible and available for participation in the industries program are not able to be assigned to this program.

Although the Corporation is making some attempts at updating the prison industries program as evidenced by the inclusion of several new more marketable industries, the Corporation still fails to provide a substantial number of the prison population with the

training or work experience necessary to obtain decent employment in the outside world. With all fairness to the Bureau, it should be pointed out that the Congress has contributed to the failure of the industries program by so narrowly limiting the FPI market. Legislative restraints that limit the opportunities for prisoners by excluding private business has been sharply criticized. A survey of manufacturers, labor union officials, and legislators concluded that many favor change. Minnesota and Indiana have repealed their State use requirements. We suggest Congress should do the same.

For the past 3 years, we have criticized the Bureau of Prisons for its willingness to relegate the compliance of minimum health standards to long-range goals rather than immediate needs. As you may know, the Supreme Court enunciated standards. Estelle v. Campbell set forth the criteria by which prison medical care will be measured and indicated prison officials will be liable for damages if there is a willful neglect for a prisoner's medical care. Obviously, a prisoner must get it solely from the custodian. Last year, we acquired a settlement for a half million dollars. Shortly afterward we obtained a settlement for a woman of $703,000, because the Bureau of Prisons had been negligent in treating a disease she had. Ultimately that comes from money appropriated by this Congress.

The potential for this kind of unhumane care and substandard care is there. The most obvious, most criticized, and most health threatening deficiency is the failure of the Bureau to provide 24-hour medical coverage in many of its closed institutions despite uniform acceptance of the need for this coverage by every professional group in the country. Twenty-four-hour medical coverage is also a standard that has been ordered by numerous courts. Nevertheless, out of the Bureau's most secure 29 institutions (penitentiaries and Federal correctional institutions) only 15 provide 24-hour medical coverage; out of the 23 Federal correctional institutions, only 10 provide 24-hour coverage. These figures have not changed dramatically over the last 3 years, and there is nothing in this year's budget request that indicates an effort to remedy this situation.

For years the Bureau of Prisons has pointed to the Springfield Medical Center as its model. That is the medical center for all Federal prisoners. Yet, as the Bureau points out, a recent Joint Commission on the Accreditation of Hospitals' inspection reports that the numbers of extremely critical staff has fallen to dangerous levels and that medical equipment at the facility is grossly inadequate. While we endorse the Bureau of Prisons' request to correct these life-threatening deficiencies, we are concerned that the Bureau allowed conditions to deteriorate so badly and that the Bureau's own internal audit procedures failed to pick up and correct these problems. In other words, they had to wait for an outside accountant to identify them. Also an issue of extreme concern is that the number of Bureau of Prisons' institutions accredited by the Joint Commission on Accreditation of Hospitals has not dramatically increased over the past year.

It is our opinion that the compliance with minimum medical standards is an absolute and immediate necessity and this commit-

tee should require the Bureau to file a plan explaining in detail how it intends to bring each of its facilities into compliance with these standards.

Drug dependency and abuse and the need for effective treatment for those who experience it is a national problem. The Bureau admits that one out of every three prisoners incarcerated in the Bureau in 1979 had a record of some drug usage prior to or at the time of incarceration. In 1979, as in previous years, drug-related offenses constituted the second largest category of crimes for which people were incarcerated. Yet, at the end of fiscal year 1979 only 2,955 prisoners were involved in the Bureau's in-care drug program, and by February 1 of this year, the number had fallen even further to 2,585.

In addition to questions about the number of people participating in the Bureau's drug program, neither its budget request nor its recently published Drug Abuse In-Care Manual give any indication that many of the qualitative deficiencies in the programs which do exist have been corrected. Neither indicates that Bureau staff involved in drug abuse treatment have any specialized training in this area. Neither provides any quality control over the treatment modalities to be used in the various institutions. Instead, both the Bureau's budget and its manual skirt all of the main issues and talk about things such as staffing patterns, required hours of counseling, or hours spent in orientation sessions, rather than the qualifications of staff or the type of treatment or counseling to be used. Thus, while the Bureau has produced more procedures to govern drug abuse treatment, nothing it has submitted indicated that drug abuse treatment has actually or will in the upcoming fiscal year be improved. Congress should demand some accountability from the Bureau on this issue rather than just approving their budget request year after year. The exact same comments we made last year and the year before.

I want to say a word about the Youth Corrections Act because of the action taken in the courts. Enacted in 1950, the YCA was an enlightened approach to the sentencing treatment of young offenders. The YCA recognizes the susceptibility of youth and the perceived need for innovative approaches to the treatment of youthful offenders. This was sought in several ways: by more carefully evaluating the individual needs of those sentenced under the Youth Corrections Act; by providing housing separate from adult offenders; and by requiring that the rehabilitative programs be carefully suited to meet the special needs of the youthful offender. In the last several years, there have been a number of cases in which the courts have uniformly found that the Bureau has failed to provide any of the services to YCA offenders that are required by the Youth Corrections Act and instead has treated them no differently than the rest of the prison population. In the most recent case of Johnson v. Bell, C.A. No. 8–71747 (E.D.Mich. 3/12/80), the court went so far as to find that as a matter of policy the Bureau was intentionally subverting this mandate by Congress. In Brown v. Carlson, 431 F.Supp. 755 (E.D.Wis. 1977), the first case in which the courts thoroughly analyzed the way in which the Bureau treats YCA offenders, the court found that the Bureau was making no effort to treat those sentenced under the Youth Corrections Act

differently from adults, and they had not even bothered to make any efforts to keep these unique and vulnerable individuals separate from the general population. In Watts v. Hadden, 469 F.Supp. 223 (D.Col. 1979), sometime after Brown, the Federal district court in Colorado found that despite the mandate in Brown, the Bureau had not significantly changed its practices. Thus in Watts the courts found that the YCA offenders were still not being separated from the adult population, were receiving no specialized training or treatment and were being treated by the U.S. Parole Commission according to the same guidelines as all of their offenders. Shockingly, in a decision rendered only last month, Johnson v. Bell, supra, the Federal district court in Michigan found that despite both of these decisions, the Bureau still had not taken any corrective action.

Nothing in the Bureau's proposed budget indicates that in the upcoming fiscal year they intend to comply with the congressional mandate contained in the Youth Corrections Act. The critical point is that Congress has decided what constitutes an effective correctional program with respect to those sentenced under the Youth Corrections Act and the Bureau of Prisons has consciously ignored that congressional mandate. In his October 1978 testimony before the Judiciary Committee, Mr. Kastenmeier's committee, at the oversight hearing on Federal Bureau Policies Regarding Placement of Juveniles and implementation of YCA, Bureau of Prisons director Norman Carlson admitted that the Bureau did not feel "particularly constrained by the YCA." He further stated:

> The bottom line, very candidly, Mr. Chairman, is I personally believe the Youth Act should be repealed, and while the Youth Corrections Act was a landmark at the time of its passage, we believe that experience and changes which have taken place over the years have caused the Act to outlive its usefulness. We support those provisions of the proposed legislation to revise the Federal Criminal Code which would eliminate the Youth Corrections Act.

One might agree with Mr. Carlson as to the Act itself, but as long as the Congress does not eliminate the Act, it seems the Federal agency mandated to carry out the will of Congress should be doing that.

In essence, the Bureau of Prisons has decided that they do not agree with the legislation passed by Congress and do not feel compelled to implement the Act. There is no evidence in the fiscal year 1981 budget request which leads us to believe that there is a systematic plan that would bring the Bureau into compliance with the 30-year-old law.

With respect to the closing of Atlanta and Leavenworth, there is very little to be said about the penitentiaries at Atlanta and Leavenworth that has not already been said many times. The prisons at Atlanta and Leavenworth now have approximately 1,375 and 1,000 prisoners respectively. They both are approximately 100 years old with huge, cavernous cellblocks (in spite of some progessive recent renovations at Leavenworth which I personally testified in the oversight committee that I thought they were progressive renovations). By any modern professional correctional standard, they are more than two or three times as big as they should be.

The Bureau's population is going down. The Bureau has, to its credit, begun to make more use of community corrections. It can

and should do more of this. Atlanta and Leavenworth have outlived their usefulness and should not be used to warehouse prisoners in this country in the 1980s. The Bureau should be required to follow through on their plan to phase down and close Atlanta Penitentiary and to remodel Leavenworth.

If you have any questions, Mr. Chairman, I would be glad to answer them.

Mr. HIGHTOWER. Is it your contention, Mr. Bronstein, that the lack of 24-hour medical care constitutes neglect on the part of the Federal Government to such a degree that it would be liable under the Tort Claims Act?

Mr. BRONSTEIN. I think it constitutes deliberate or willful neglect in a large institution, a large closed institution, not to have 24-hour medical care. Most recently the Eighth District Court in Colorado, Ramos v. the Governor of Colorado, Lamm, held that the lack of 24-hour medical coverage established neglect under the Estelle v. Campbell test.

Mr. HIGHTOWER. In your breakdown of the various facilities and medical care available, do you differentiate between those where you think the lack of 100-percent care is causing a liability?

Mr. BRONSTEIN. No, I would say these are all institutions with 500 or more prisoners, and I think any institution that large that does not have 24-hour medical care could be liable just based on that, if there were an incident of somebody having an illness aggravated or someone becoming ill during that period without medical care.

Mr. HIGHTOWER. Thank you very much. We appreciate your testimony.

TUESDAY, APRIL 15, 1980.

DEPARTMENT OF JUSTICE

SALARIES AND EXPENSES, ANTITRUST DIVISION

WITNESS

CHAUNCEY BROWNING, ATTORNEY GENERAL, WEST VIRGINIA

Mr. HIGHTOWER. Mr. Chauncey Browning, we will be delighted to hear from you. We have your written testimony, which we will insert in the record.

[The statement follows:]

State Antitrust Grants

Testimony by Attorney General Chauncey Browning, West Virginia
Before the House Subcommittee on State, Justice,
Commerce and Judiciary

April 15, 1980

Mr. Chairman and Members of the Subcommittee,

Thank you very much for this opportunity to testify in support of the $4 million for state antitrust enforcement grants which the Department of Justice has requested in its FY'80 supplemental budget.

As you will recall, on October 13, 1976 the Congress authorized $30 million for three fiscal years to the United States Department of Justice to provide financial grants for states to develop or to enhance antitrust enforcement efforts. In FY'77 only $1 million of the $10 million authorized was actually appropriated because the action did not occur until late in the year. The full $10 million was appropriated for each of FY'78 and '79. Thus, of the $30 million originally authorized by the Congress, only $21 million was actually appropriated.

In 1979, the Senate authorized continuation of the funding program in FY'80 by authorizing $5 million to account for a portion of the lapsedFY'77 funds, and the Senate Appropriations Committee also approved it. There was no House authorization for the funding so during the House-Senate appropriations conference, the Senate agreed to recede from its position. However, conferees indicated in their Conference Report No. 96-402, dated July 31, 1979, that although "although authorizing legislation to continue the program has passed the Senate, final enactment at this time is uncertain. If authorizing legislation is ultimately enacted, the Committees on Appropriations will be receptive to providing funds." In November 1979, the House and the Senate agreed to a

$4 million authorization for the FY'80 state antitrust grants, which the Justice Department then requested in its supplemental budget. The Department's request was approved by OMB, and that request is now pending before this Subcommittee.

At least 17 states, including West Virginia, have antitrust programs which are likely to be terminated or severely curtailed if this proposed Justice Department funding is discontinued at this time. I have attached a list of these states to this testimony, as well as a brief explanation of the reason why each program will be discontinued and I ask your permission to include these materials in the hearing record.

The reason in almost every instance why the state will probably not pick up the funding is that the program has had insufficient time to show the state legislature the need for its continued existence. For example, Nevada only recently obtained the permission of its state legislature to accept funding and by the time its money runs out, it will have had only a year and a half to establish its efficacy. Delaware has spent a major portion of its grant money attempting to obtain new antitrust laws in the state and its law just went into effect in January 1980. In my own state, there just has been insufficient time to establish a track record and to educate the legislature about the program. In Iowa which has become actively involved in multi-district litigation to augment state case work, FY'80 funds are essential to complete a compelling record on these cases to present to the legislature. Without the funding, these states and others will be severely hampered in their antitrust enforcement efforts.

I, personally, along with other members of the National Association of Attorneys General believe that the states deserve the full opportunity to develop strong local antitrust programs originally envisioned by the Congress in 1976. As you know, antitrust cases take months to develop and sometimes years to litigate. Each of the states listed has have already begun significant steps towards altering competition policy in their states through litigation and regulatory reform. The distinct possibility that these programs will now sputter in mid-stream simply through insufficient time and incomplete funding is what we seek to avoid by completing the program as originally conceived.

It is the position of the National Association of Attorneys General that it would not request additional authorization legislation or appropriation of funds beyond the $30 million originally authorized. That assurance is contained in my April 3, 1979 letter to Judge Bell and is reiterated by the August 21, 1979 letter to Attorney General Civiletti from the President of NAAG, Attorney General J. D. MacFarlane of Colorado. I ask that these letters also be included in the public record.

Antitrust enforcement is widely regarded by both theoretical and practical economists as one of the few specific affirmative steps which can be taken to reduce inflation. Some prices are higher because producers have gotten together and agreed to raise them or have gotten together and divided up the territory or the customers lists. That aspect of inflation can be directly attacked by aggressive antitrust enforcement and that is what the state grant program is about. Forty-six states have participated in

the grant program which has visibly strengthened antitrust enforcement in this nation. The benefits which the FY'80 funds will bring to the citizens of the states far outweigh the small investment of funds to continue the program. I hope that you share my view and will support the $4 million grants to states, in Subcommittee, full Committee and before the full House.

Thank you.

STATE ANTITRUST PROGRAMS SUBJECT TO
TERMINATION IN THE ABSENCE OF FY 1980
DEPARTMENT OF JUSTICE FUNDING

ALABAMA	Legislature unlikely to pick up funding for FY 1980 because of insufficient time to establish record. Over $100,000 in cases jeopardized.
ARKANSAS	Legislature unlikely to fund program since it is relatively new; eight major ongoing cases jeopardized.
COLORADO	Local legislative antipathy will mean program will not be picked up despite $700,000 in recoveries in grant period.
DELAWARE	Only 6 months experience with a new antitrust statute (Jan. 1980) before budget process plus legislative indifference will mean disbanding of program.
HAWAII	Insufficient time and ability to bring cases (because of Illinois Brick) to convince legislature to pick up funding. Potential $250,000 recoveries and regulatory reform jeopardized.
IOWA	Grants have been used to establish a strong multi-district litigation program to augment state-case work; final portion of grant program needed to complete a compelling record on MDL cases to present to legislature unsympathetic to Attorney General.
KANSAS	Antitrust Division will be abandoned since state funding possibility extremely slim. Five person staff, 25 cases and investigations jeopardized, $200,000 recoveries in 1 1/2 years.
MAINE	Completely grant dependent until 12/80; 1/81 legislative session will consider program which would be in suspense until July, 1981. All investigative capacity will end.
MONTANA	No state funding and no way to obtain it from biennial legislature unsympathetic to Attorney General; potential $500,000 jeopardized.

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NEVADA	Unsympathetic legislature first refused to accept grant, then accepted on 9/1/79; strong prospect of disbanding after grant.
NEW HAMPSHIRE	With recently amended law, only 2 years insufficient time to convince biennial legislature of program potential.
NORTH DAKOTA	No state funds through present biennium; program would be severely curtailed and possibly shut down without grant.
PENNSYLVANIA	Has used grant to seek passage of legislation endorsed on 10/2/79 by Governor. Without time to test program, no state funding after mid-1980.
RHODE ISLAND	Statute effective 7/1/79; unlikely state will fund despite 4 cases, 23 investigations with over $1,000,000 potential; bid-monitoring program jeopardized.
SOUTH CAROLINA	No local legislative support for program, unlikely to be funded.
VERMONT	Only in operation 18 months, legislature unlikely to support on brief record despite 6 to 8 cases involving $200,000 potential recovery.
WEST VIRGINIA	Substantial state funding problems; only 1 1/2 years insufficient to educate legislature to need for program.

STATEMENT REGARDING EFFECT OF DISCONTINUATION
OF GRANTS TO AID STATE ANTITRUST ENFORCEMENT
PROGRAMS ON PARTICIPATING STATES

The discontinuation of the Grants to Aid State Antitrust Enforcement program will have significant effects on the state units which have been created or enhanced by federal money. What was originally authorized by Congress to be a three-year, $30 million program has been a 25-month, $21 million program. As a result, a great number of states have had insufficient time to create a record of success substnatial enough to persuade a local state legislature of the importance of state enforcement.

Attached to this statement is a list of those states which will, after the grant program expires, disband state antitrust programs or curtail them so severely that the result will be the equivalent of dissolving the program. In other words, although in some cases an attorney may continue to provide antitrust expertise and complete present litigation, these states will be unable to maintain an antitrust unit as such within the Attorney General's office. Those states include the following: Alabama, Arkansas, Colorado, Delaware, Hawaii, Iowa, Kansas, Maine, Montana, Nevada, New Hampshire, North Dakota, Pennsylvania, Rhode Island, South Carolina, Vermont, West Virginia.

Each state's situation, of course, is unique although there are common threads running throughout. In Alabama, although the state has recovered over $400,000 in damages and penalties during the grant period and although the state has in-depth investigations of the health care and supply house industries which could net over $100,000 more, there has been a significant lack of sympathy evidenced toward the program by the state legislature. The unit has been very frugal in its use of the grant funds and has attempted to establish a highly visible record of good enforcement, but it appears that the grant period has not been long enough to persuade the legislature that the program should be continued.

Arkansas has had an excellent enforcement record and in 1 1/2 years has returned $500,000 to the state, much more than the state received from the grant program or the legislature. However, with eight pending cases and a biennial legislature which only funded the prosecution of one specific case, it is difficult for the state's program to survive beyond July, 1980. This is a state which has drafted new antitrust legislation, has been very active in seeking pro-competitive goals before regulatory commissions and licensing boards, and has initiated work to create a bid-monitoring procedure for purchasing officials in the state.

Colorado has recovered almost $700,000 in the year and a half of the grant program and has distributed the first settlement fund ever created under the parens patriae provisions of the Hart-Scott-Rodino Antitrust Improvements Act of 1976. The present activist attorney general, however, will have difficulty convincing the legislature that this is sufficient time to establish that the program will continue as successfully. A very substantial program may face demise without further federal funding.

Delaware's situation is a unique one. The grant money received to date was used to seek passage of a new antitrust statute. Success was recently reached in that regard, but the statute does not go into effect until January 1980. Delaware attorneys will have to seek a state budget some six months later. It is very unlikely that a mere half year program will be able to make a showing sufficient to persuade the legislature to substitute state for federal funding. The state very well could make that showing if the opportunity of extending the program another year were available through additional federal funding. Once again, this is what Congress originally envisioned.

Hawaii was also faced with the problem of insufficient time to convince the legislature that its program was worthwhile and ought to be funded by the state. A great number of multi-district cases with a potential of over $250,000 in recovery, plus a substantial regulatory reform program, are jeopardized. Hawaii attorneys also cite the fact that the grant program started during the era of the Illinois Brick decision which denies indirect purchasers the right to recover damages in price-fixing cases. State governments have thus not been able to make the type of financial showing often necessary to convince a state legislature that a program is worthwhile. The same rationale has no doubt affected the ability of other states to make a sound fiscal record.

The situation in Kansas is simply that it is very unlikely that the state will pick up the funding since the program is relatively new and has been completely grant dependent. In 1 1/2 years the state of Kansas has recovered over $200,000 in antitrust cases and created its first full-time antitrust enforcement staff. Twenty-five cases and investigations would be jeopardized by the expiration of the program.

Maine is also faced with the problem of a biennial legislature which, since the program was not in full effect at the time the legislature last met, did not appropriate any funds for a state antitrust enforcement program to continue after the grant. The next time the program can be considered for funding is in mid-1981 -- but grant funds will only carry the program through December 1980. The state has twenty to thirty investigations and a staff of five which would be disbanded because the program could not continue without funding.

When the state of Montana sought state funding this year, the legislature was particularly inimical to the present attorney general. Because of this and the complete grant dependency of the state, the program will expire at the end of the grant period. This state has established a first-rate bureau of antitrust enforcement, has assumed representation of the state in a number of multi-district cases valued at over $500,000, and has done a significant job of reviewing professional licensing board regulations. Without continued funding the program will be discontinued.

South Carolina reports that it simply does not have support in the legislature for continued funding into 1981. The state has been extremely conservative in its use of the grant money hoping that a record can be established to justify state funding for the program, but at this point it appears unlikely. South Carolina has also initiated significant efforts to remove anticompetitive rules of state agencies and increased the number of investigations from zero to twelve in the first year of the grant program.

Vermont's program has only been in operation for 18 months. State Attorneys there feel certain that another 18 months would probably give them a sufficient record to get full funding at the state level. However, the program has not been alive long enough to create that possibility. Vermont presently has 6-8 cases with approximately $200,000 at stake.

West Virginia's program has likewise only been in operation for a short time. Attorneys there indicate that one more year would probably provide the time necessary to point to accomplishments which would justify continuation of the program. For example, its new state statute includes a revolving fund which has not been in operation long enough to create a "cushion" which would enable them to continue present cases. At this time the state is investigating antitrust violations in the energy, tranportation, health care, real estate and consumer goods and services areas and is setting up a bid-monitoring program.

There are several other states with programs which would not go completely out of existence but would be severely hampered by discontinuation of the state funding program. Louisiana, for example, would suffer a 75% cut-back in their staff without federal funding. Six major pieces of multi-district litigation and 20 investigations would probably be compromised or hired out to private counsel. This procedure ordinarily means a significant loss of revenue to the state.

Alaska reports it has a 30-40% chance of funding because of increased revenues through increased oil taxes from the northern slope during the coming session. However, if the state cannot obtain state funding, the program will have to be closed down.

In the state of Texas, the program would be slashed by more than 50% without continued federal funding. Texas attorneys state they would have to scrap a bid-monitoring project as well remove approximately 4 persons from their staff. The state anticipates great difficulty in obtaining state funding because of a conservative political climate reflected in the legislature's recent drastic revision of the state's Consumer Protection Act. Because Texas has a biennial legislature, the state cannot seek funds until 1981 in any case. This is a state which has significantly increased its antitrust program since 2 years ago and recently recovered $4 million in a suit involving reinforced steel bars.

The state of Utah also reports that fiscal and political conservativism may mean the end of its antitrust program a short time after its new antitrust statute was passed. However, at the present time the attorneys state that there is a better than even chance that some state funding will be forthcoming.

During the first year of the grant period the state of Nevada's legislature refused to accept any federal money for the program. By a vote of a majority of one the legislature this year voted to accept the grant and the program went into effect in September of 1979. However, since the program will only have been in existence for a year when the attorney general will be required to seek state funding, there is a very strong prospect the program will disband after the grant because there has been insufficient time to create a record of strong enforcement.

New Hampshire recently amended its antitrust law and is attempting now to bring its efforts to fruition. However, the state is also faced with the problem of a biennial legislature which has already convened without authorizing state funds for the program. The brief time that the program was active was insufficient to convince the local lawmakers of the program's potential. Another year of funding, according to state attorneys, would put them in a much better position. The antitrust section chief in New Hampshire has suggested that it is "unrealistic to presume" that in two years a state antitrust program can identify antitrust problems, spend time on education of its attorneys and the business community as to antitrust concerns, and bring about tangible results.

North Dakota simply does not have funds through the present biennium to carry out its antitrust enforcement program. The state was counting on a three-year funding program and without it will have to severely curtail its staff or shut down completely. This would put in jeopardy five cases and the staff which is working on those cases.

In a situation quite similar to the state of Delaware's, Pennsylvania has used its grant money to seek passage of a state antitrust law which has never existed in Pennsylvania. On October 2 of this year the Pennsylvania state governor endorsed state antitrust legislation which, in the particular political circumstances in that state, means that there is a strong chance there will be a law next year. Nevertheless, there will be insufficient time to test the program without continued federal funding to get the local legislature to provide state funding after mid-1980.

Although Rhode Island is seeking full state funding, it is very unlikely that in the short time the program has been in existence, the attorney general will be able to obtain it. This state has been extremely active in bid-monitoring, in investigating the energy industry, and in cooperating with other New England states on pursuing regional antitrust violations. Rhode Island and other New England state attorneys point out that the competition climate in that area of the country is significantly affected by the cooperation of multiple states. Discontinuation of any single, and several are in jeopardy, would create a ripple effect throughout the New England area since the grant program has fostered substantial cooperation among those states.

Minnesota reports that its program would be cut back 25% without federal funding.

Connecticut claims that its efforts will be cut by 30-40% and that seven staff persons would have to be let go in the event that the grant program is not continued. Connecticut is presently involved in a great number of cases, including the multi-district petroleum case, a suit against a major blue jeans manufacturer, the Eastern Sugar litigation, and a number of other investigations.

Attorneys for the state of Maryland feel that the general assembly will not fund its entire program after the grant. This means that approximately one-third of the staff will have to move to other pursuits. During the period of the grant Maryland has been extremely active, and among its successes was a parens patriae suit against price-fixers of real estate in Montgomery County in which consumers were substantially benefited and some significant new antitrust law was created. The state also points out that it is difficult to obtain and train good antitrust attorneys and that the time period of the grant program has been insufficient to date for that purpose.

North Carolina reports that its antitrust program would probably be cut by two-thirds unless state funding can be obtained, which is questionable at the present time. Attorneys there are, among other things, looking at substantial claims in an apparel investigation and a chemicals investigation which could total in the millions.

Other states would no doubt survive the end of the federal grant program, even though some curtailment would be necessary. There is no question that California, Washington, Wisconsin, Florida, Illinois, Minnesota, New Jersey, New York, Ohio, Oregon, and perhaps others will continue programs in some form or another. The real need for continued funding is felt by those states who have had seminal programs with insufficient time to create a record to persuade state legislatures of the need for state enforcement.

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C. RAYMOND MARVIN
WASHINGTON COUNSEL

BY MESSENGER

April 3, 1979

Honorable Griffin B. Bell
Attorney General of the United States
Department of Justice
Washington, D.C. 20530

Dear Judge Bell:

On behalf of the members of this Association, I want to thank you for joining us this morning for breakfast during our Spring Conference in Washington. It was kind of you to take the time from your busy schedule and all of us appreciated very much the opportunity to discuss matters of mutual concern.

There is one matter which we discussed which I would like to follow up on promptly. We discussed the antitrust state grant program and the question of the Administration's position on the $9 million which remains unappropriated. As you recall, the Congress enacted legislation in 1976 which authorized the appropriation of $10 million per year for three consecutive years to the Department of Justice for grants to state Attorneys General offices for the purpose of improving antitrust enforcement at the state level. The Ford Administration refused to request an appropriation pursuant to the authorization, but shortly after President Carter was inaugurated, that position was reversed in time for appropriation of $1 million of the $10 million that fiscal year. President Carter subsequently requested and the Congress appropriated the full $10 million for the next two fiscal years, for a total of $21 million appropriated. At stake is the remaining $9 million which was authorized for this program but not yet appropriated.

APPENDIX A

This morning you stated that if we were to assure you and President Carter that the Association will not ask for appropriation of funds beyond the total $30 million originally agreed upon, you will request that the $9 million be appropriated. I have authority from my colleagues to give that assurance: the National Association of Attorneys General binds itself to the position that it will not ask for additional authorization legislation or appropriation of funds beyond the $30 million originally conceived for the state grant programs for antitrust enforcement. We would be glad to have this position known as widely as you feel appropriate. I will direct our staff to work with Assistant Attorney General Shenefield or any other person on your staff you designate in the follow through on this important matter. Again, thank you for your cordial and helpful meeting today.

With best personal regards and,

Sincerely and Respectfully yours,

Chauncey H. Browning

Chauncey H. Browning
Attorney General of West Virginia
President, National Association of
Attorneys General

CHB:MDH

cc: Vice President Walter F. Mondale
Robert Lipshutz, Counsel to the President

J.D. MacFarlane
Attorney General
Richard F. Hennessey
Deputy Attorney General
Mary J. Mullarkey
Solicitor General

The State of Colorado
DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL

STATE SERVICES BUILDING
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August 21, 1979

The Honorable Benjamin R. Civiletti
Attorney General
Department of Justice
Constitution Avenue between 9th and 10th
Washington, D.C. 20530

Dear Mr. Civiletti:

It was an honor for me to attend your swearing in last Thursday in Washington. I am certain that your career as Attorney General will be an exceptional one and I wish you all good fortune during your tenure.

During your remarks at the swearing in you made it clear that antitrust enforcement will remain a significant priority for the Department of Justice while you are Attorney General. I was particularly heartened by your remarks because antitrust has been a special focus of mine and of numerous other state attorneys general during the past several years. As you are aware, the states have benefited from $21 million in Antitrust Division grants to carry on antitrust enforcement efforts at the state level and, in many instances, to initiate totally new programs. The result has been an astonishing increase in antitrust prosecution at the state level which has significantly complemented the work of the Department of Justice.

The authorization for the grants to aid state antitrust enforcement runs out this year. This is troublesome because $9 million of the original $30 million authorization was never appropriated for use by state programs. Many of these programs, which are barely off the ground at this point, will go out of existence or be severely hampered unless the remaining unappropriated portion of the authorization, or part of it, is in fact appropriated.

APPENDIX B

The Department of Justice supplemental budget is presently under consideration by the House. Naturally, your help in obtaining funding for the state programs through the supplemental is the most important factor in assuring that this fine program continues.

You will recall that at the executive committee meeting of the National Association of Attorneys General which you and I attended in April of this year, former Attorney General Bell assured us his support for the continuation of the program, provided the state attorneys general promised not to ask any funds beyond the initial authorization. Later that day the President concurred in that assurance when we met with him. I have enclosed a letter from Chauncey Browning of West Virginia, former president of the National Association of Attorneys General, in which he states that the attorneys general will not seek any funding beyond the initial authorization. By way of this letter I reiterate that commitment to you.

In July the Senate, primarily through the efforts of Senators Leahy, DeConcini, and Bumpers, authorized and appropriated $5 million of the previously unappropriated $9 million. Congressman John Slack of West Virginia, chairman of the conference committee which rejected the $5 million because it did not have House authorization, has assured us he will help us obtain the funding in a supplemental budget. Given these circumstances at the legislative level, the commitment of the state attorneys general and of the administration, and, most importantly, the enormous value of the state antitrust grant program, I hope you will do what you can to see that the program continues to be funded.

Once again my congratulations to you as you take on the duties of the chief law enforcement officer for the nation. I pledge my support and the support of my fellow attorneys general as you face the difficult law enforcement challenges of the coming years.

Very truly yours,

J. D. MacFARLANE
Attorney General
State of Colorado
President National Association of
Attorneys General

JDM:cg
cc: John H Shenefield

Mr. BROWNING. Thank you, Mr. Chairman. There are also a couple of attachments to my testimony which I would like to have made a part of the record, also.

I want to thank you for the opportunity to appear. I appear as the representative of the National Association of Attorneys General, being its past chairman and chairman of the State Antitrust Committee.

I appear here both with hope and with some sadness because of the loss of the chairman of this subcommittee who was my Congressman, but we appreciate the opportunity to appear today.

Mr. HIGHTOWER. We appreciate your comment about the chairman, and of course you know your name appeared on the witness list. It certainly brought to mind that were he here, he would certainly be extending a very special welcome to you.

Mr. BROWNING. Mr. Chairman, the problem very succinctly that we have in this regard is this: In 1976 the Congress authorized the appropriation of $30 million to state antitrust units either for their formation or for their expansion to the point where they could become effective. That was done in connection with the Hart-Scott-Rodino Act. It was understood at that time that it was necessary to appropriate that amount of money over a period of three years because the nature of antitrust problems is such that it was believed by the Congress, and certainly accepted as a fact by the states, that it would require a minimum of three years in order to convince our state legislatures of the necessity and the desirability of their supporting those state antitrust units within state government.

Unfortunately, because the appropriation for fiscal year 1977 was made so late in the year, rather than the $10 million for each of three successive fiscal years being made, only $1 million was appropriated for fiscal year 1977. Thereafter the full $10 million was appropriated in fiscal year 1978 and fiscal year 1979, which brought it to a total of $21 million out of the $30 million that had been authorized and it was dispersed to the states for the starting up of those antitrust programs.

We used that money to start them up, knowing that it was going to take three years in order to get the development of the program started: simply to staff it, to begin the investigations, to go through the trial procedures, and to show some result.

Unfortunately, what we are faced with now is that we had made our plans on the basis of a $30 million appropriation for 36 months. The way things stand now, we have received $21 million of that $30 million in a 25-month program to date.

As a result, there are 17 states that in reliance upon that three year $30 million program have started their units, have made them effective, and now face quite frankly the very drastic proposition that they will either have to be curtailed or completely dismantled, because in that period of time and with that funding, in my judgment and in their judgment, they have not been able to develop those programs sufficiently to convince their state legislatures to pick up this tab. That list of states is attached to this testimony and it gives the reasons for the belief that those 17 states at least will probably curtail or be put out of business.

Last year during my tenure as the President of the Association, I sent a letter to Judge Bell. The current President of our association has just sent a letter to Mr. Civiletti, with whom we met yesterday. In each instance, sir, we have indicated with our solemn oath we will never come back to the Congress of the United States to ask for any additional funding for these state antitrust programs. But it is imperative in order not to lose those many state programs which are in jeopardy, that we have the full $30 million appropriation for that full 36-month period or else we are going to lose the benefit of the $21 million that has already been spent.

The Senate has agreed to a $5 million appropriation. In my discussions with Congressman Slack, he indicated it was impossible for the House to move on it because there had not been an authorization by the House. In a joint House-Senate Conferees' Committee—and the statement of that report is in my testimony—it was agreed by that conference that were authorization to be made by the House, that that conference would recommend the appropriation of $4 million in supplemental fiscal year 1980, which is included in the Justice Department's supplemental budget for fiscal year 1980.

Again, Mr. Civiletti, as late as yesteday morning having confirmed to us that he is fully in favor of that additional $4 million, we now come to this committee and to the House seeking authorization for that additional $4 million for the supplemental fiscal year 1980 budget.

Mr. HIGHTOWER. Thank you very much, General Browning. We do appreciate your taking the time to come over here and give us the benefit of this testimony and we will certainly do our best to assist you as much as we can.

TUESDAY, APRIL 15, 1980.

BOARD FOR INTERNATIONAL BROADCASTING

WITNESS

JAN NOWAK, REPRESENTING POLISH AMERICAN CONGRESS

Mr. HIGHTOWER.

Mr. Jan Nowak, we have your prepared statement. We will insert it in the record at this point.

[The statement follows:]

STATEMENT FOR THE APPROPRIATION SUBCOMMITTEE OF
THE HOUSE OF REPRESENTATIVES
ON BEHALF OF THE POLISH AMERICAN CONGRESS

by Jan Nowak

I was for 24 years (1952-1976) director of the Polish Program, Radio Free Europe in Munich. Earlier I was the editor for four years of the Polish Service of the BBC. I am no longer on the RFE/RL payroll and I have no personal stakes in the Radios, but I remain keenly aware of their impact and strategic importance.

After spending most of my life in international broadcasting, I was prompted to ask in 1976 for an early retirement by what looked to me a slow dismantling of RFE/RL. This process of gradual extinction has continued since my departure. According to the BIB Annual Report for 1980 both Radios have lost over the last decade 38 percent of their staff! Reduction of personnel still continues. In the current fiscal year the Radios will have to eliminate another 30 positions! The inflow of fresh blood has been blocked, while top talents have been encouraged by expensive incentives to leave before retirement age. "The Radios' services," says the BIB Report for 1979, "has been paying the price of the budgetary restrictions..." According to BIB, listenership in the Soviet Union shrank by half and the audiences in some other countries of Eastern Europe also decreased substantially, particularly among younger people. No similar trend can be traced in audiences of BBC, Deutsche Welle and VOA. In my view several factors are responsible for this downward trend:

1. Budgetary restrictions:

Both Radios have been squeezed between currency devaluation, inflation and economics imposed by BIB, OMB and the Congress. For instance the budgetary request submitted by RFE/RL for FY 1979 was first cut by one million by BIB, then the budget was reduced by $1,810,000 by OMB and finally Congress further cut the request by $730,000. As a result, last September RFE/RL had to borrow more than 3 million dollars from the Deutsche Bank in order to be able to continue to the end of the fiscal year. FY 1980 started with the deficit of 2 million dollars. On paper budget allocations are higher every year. In fact they are inadequate to compensate for devaluation and inflation.

Over the last eight years the dollar has been devalued by 58 percent. Inflation in Germany even at its slow rate of 4 percent per year has reduced purchasing power of the German Mark by 32 percent in the last 8 years. The U.S. Congress approved supplements for currency devaluation but the money allocated to Radios was almost as a rule by one to two million dollars short of compensating for inflationary costs increases. Since 90 percent of spending is mandatory (salaries, rents, electric power, etc.), even marginal cuts fell on operational funds and brought losses out of any proportion to savings.

2. Structural faults:

Since the Board for International Broadcasting is a federal agency, its spokesmen consider themselves bound by decisions of OMB. In dealing with Congress they do not feel free to present the financial difficulties in their full magnitude and to request funds above OMB ceiling. I have great admiration for Professor John Gronouski and appreciate his dedicated work. During hearings which I attended he was, however, acting more as a spokesman for OMB than for the Radios. This structural problem prevents Radio management from appealing to Congress against decisions of the Administration and from presenting its case to congressional committees without restrictions and inhibitions.

3. Inadequate transmitter facilities:

The Eisenhower Commission stated in 1973 that RFE/RL transmitters are obsolete and do not have sufficient power (some of them date back to 1950). The program of building new 12 transmitters was submitted to the Congress and approved in 1977. This project was only the beginning--it did not make good all deficiencies. It is admitted only now (BIB Annual Report for 1980) that even when these new transmitters will go into operation in 1981, the whole area of the Soviet Union east of the Urals will remain out of range of Radio Liberty transmitters. In fact present broadcasting in the Muslim languages of Central Asia is an exercise in futility. None of these programs can be heard in their target areas on a regular basis.

4. Bad strategy:

Voice of America has been entangled in such a web of political restrictions and bureaucratic controls that its programs have become relatively harmless from the point of view of communist regimes. The Soviets have stopped jamming VOA and concentrate instead all their available jamming facilities on RFE/RL, Radio Peking and Radio Kol-Israel. Due to this U.S. strategy or lack of it, Russia has weakened two birds with one stone. VOA has become ineffective through self-censorship while RFE/RL has lost a considerable number of listeners through jamming.

5. Lack of stability:

Since 1972 RFE/RL has been operating under conditions of permanent reorganizations and uncertainty. Between 1974 and 1979 the costs of terminations and reorganizations reached 16.5 million dollars. Lack of stability and security have undermined the morale of the staff. As an executive well acquainted with the inner fabric of Radios, I believe that BIB's current recommendation to transfer 45-60 editors from Munich to the U.S.A. and dispersal of 15-20 to places "elsewhere in Europe" will deal a further crippling blow to the RFE/RL operation. There is a flagrant contradiction in the BIB Report. An option of relocating 10 percent of the editorial staff to the U.S.A. and several West European capitals was firmly rejected. In the same breath the transfer of 9 percent was recommended as an "enrichment of the program"!

In order to carry on its mission effectively and to act as a substitute of a free press a radio station has to remain as close as possible to its audience. Soviets beam their propaganda to Iran not from Moscow but from Baku--the nearest city to the Iranian frontier. The addition of one or two people to the program units in New York, Paris, Rome and London could indeed enrich the program. But expansion of these units at the expense of personnel in Munich will weaken the operation further. The staff in Munich as been already reduced in consecutive mass-terminations from 2,542 in 1972 to 1,700 in 1979! Elimination of another 31 positions is expected in 1980. Dispersal and transfer of another 45-60 people will carry this steady process of gradual extinction beyond its breaking point. It will make editorial supervision, coordination and communication more expensive and difficult if not impossible. Relocation disregards a human aspect of the problem. It will mean uprooting people who have strong ties with their European background, their children in schools, their properties, etc. It sounds like paradox that 4.5 million dollars should be spent on this highly disruptive operation while funds are denied to build more and better transmitters and funds for improved programming cannot be found. With the inflation rate in the U.S.A. four times higher than in Germany the prospects of saving money in the future are more than doubtful.

6. Soviet appreciation of mass media as a strategic weapon:

The danger of nuclear holocaust has shifted the challenge we are facing to the non-military arena. Russia and her satellites display full appreciation of mass media in their conquest without war. Inflammatory, violently anti-American propaganda beamed to Iran scored one of the greatest successes in the history of psychological warfare. Similar subversive

efforts are aimed at Turkey, other countries of the Middle East and at the Third World. The costs of Soviet jamming of RFE/RL is estimated at 300 million dollars -- three times as much as the U.S. spends on these broadcasts! The Soviets consider western broadcasting as a dangerous and effective means of eroding their despotic system and its commitment to expansion.

Let me submit the following recommendations to your Appropriations Subcommittee:

a. The trend of downgrading of Radios by fiscal restrictions should be arrested. Budget allocations authorized by the Foreign Relations Committee should be accepted without further cuts.

b. The management of Radio Free Europe and Radio Liberty should be questioned during the hearings and should be given full freedom to present their cases honestly.

c. Disruptive dispersal of editorial teams should be barred. Internal stability of the Radios is essential for their effectiveness and should be restored and maintained.

Jan Nowak

Jan Nowak
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February 5, 1980

62-321 O - 80 - 35

Fiscal Year	Termination/Reorganization Costs	Deutsche Mark Rate
FY 1974	$ 5,305,074	Composite Rate
FY 1975	4,048,869	Composite Rate
FY 1976 (15 months)	1,924,007	Composite Rate
FY 1977	925,840	DM 2.3664
FY 1978	3,009,893	DM 2.0711
FY 1979 (Budget Projection)	1,346,000	DM 2.1075

The financial statements do not include a separate line for termination costs in Fiscal Years 1972 and 1973.

The termination account includes such items as payments for notice, severance, unused vacation, fringe benefits, transportation and shipment of goods, special early retirement incentives and costs incurred due to the merger of the two radios in 1975 and the reorganization in 1978.

President's (D. Ferguson) report to the Board (5)
of 2 Oct 1979

C. A Visiting Scholar

Dr. Robert Conquest spent a week as a guest consultant under the auspices of the RFE/RL Fund. A distinguished poet, scholar and journalist (with frequent articles in the London Daily Telegraph), Dr. Conquest has written nine books about the Soviet Union. He is well-known for "The Great Terror" which has been used extensively in RFE/RL broadcasts. On two separate occasions, a large audience of employees heard Dr. Conquest discuss the succession to Brezhnev and Soviet nationalities policy.

Financial Management Division

A. Cash Flow Problem

Currently, RFE/RL is in a critical cash position. In FY 1979, we sustained approximately $3,000,000 in foreign currency losses that will only be funded in FY 1980. Our only option was to request the Deutsche Bank to extend us a line of credit until the FY 1980 Grant funds become available later in October.

At the August meeting of the Executive Committee, a resolution empowering the President and authorized signatories to borrow money was passed. On September 14, 1979, the Board of Directors and the Board for International Broadcasting were notified in writing that the Corporation would exercise this authority by borrowing 6,000,000 deutsche marks from the Deutsche Bank around September 24. In order to minimize the interest on the loan, the Board for International Broadcasting has agreed to our requesting advance funding in FY 1980 so that the loan may be repaid in October 1979.

B. Data Processing Committee

An EDP Working Committee has been formed to develop an integrated computer system designed to service finance, budget, administration, and engineering as well as word processing requirements for programming, news, research, broadcast analysis, samizdat and any other departments which might use a centralized system. The Committee is composed of representatives from Financial Management, Central News, RLD, RFED, and Engineering.

At present, we are planning to replace our IBM System 3 with the latest dialogue system model which would serve as the basic unit for an integrated in-house configuration. One year ago, we ordered IBM's new System 38 for delivery in October 1979. In preparation for the arrival of the IBM 38, members of the Management Information Systems Center attended several courses

RFE/RL STAFF REDUCTIONS

/Source: BIB ANNUAL REPORT/

1972	=	2542
1973	=	2368
1974	=	2025
1975	=	2002
1976	=	1821
1977	=	1765
1978	=	1749
1979	=	1700
TOTAL LOSS /1972-1979/	=	842

Mr. HIGHTOWER. We would appreciate hearing any additional comments that you may have.

Mr. NOWAK. Mr. Chairman, thank you very much for giving me this opportunity of testifying before your committee.

I was Director of the Polish Program of Radio Free Europe for 24 years. Immediately I was in the war for five years and I was with the BBC in London. During the war, I participated in psychological warfare against the Nazis.

After really spending all my life in international broadcasting, I retired in 1976. I am no longer on the payroll and I have no personal stakes in Radio Free Europe and Radio Liberty, but I am keenly aware of their strategic importance to the United States interests.

I am testifying here as a representative of the Polish American Congress and at the request of its President, Mr. Masewski.

I asked for retirement before reaching retirement age in 1976 because I believed that the Radios are being gradually phased out and I did not wish to participate in this process.

My staff was aging, vacant positions were closed, people were encouraged by lucrative incentives to quit before they reached retirement age, and the inflow of fresh blood was blocked. I had lost several unique opportunities of hiring young outstanding talents which do not occur very often because, after all, we do hire the foreign language staff, the people that come from this area, East Europe.

This process continued after I left the organization. Over the last ten years in annual installments, the Radios lost almost 40 percent of its staff, which I believe is a staggering figure. This is not, and I have to stress this, this is not the result of merger of Radio Free Europe and Radio Liberty. This was a one-time operation that took place in 1976 and it allowed for the elimination of approximately 1200 people. The process of extinction started in 1968 and continues until now. Only last January, 38 positions had to be again eliminated because of the lack of funds.

BIB, in its annual report for 1979, stated clearly, and I quote: "Radio Free Europe services have been paying the price for the budgetary restrictions which made it impossible for nearly a decade to rejuvenate staff in a normal way."

The price was very heavy, indeed. Since 1973, the audience in the Soviet Union shrank by half. The audience of Radio Free Europe, which broadcasts to East Europe, declined by two million people. In my own sector, in Poland, the audience of young people in the ages between 14 and 24 declined almost by half. The election of the Polish Pope did arrest this trend in Poland and there is even some increase. The trend was also arrested recently, we are told, in the Soviet Union and in East Europe, but it is still far below what it was in the early seventies.

The Radios have been squeezed between the devaluation of the dollar—the dollar was devaluated by 110 percent since the early seventies—inflationary increases of costs, and finally constant cuts in financial requests, first by BIB and then by OMB, and finally by the Congress.

On paper and in absolute figures, the allocation looks much bigger every year, but in fact, the allocation compensates only for

currency devaluation. It does not compensate for the increase of rents, salaries, and electricity. The cuts were miniscule.

For this year OMB cut $2.5 million, but since ninety percent of spending is mandatory for rents, salaries, and electricity, the deficit has to be compensated by constant decrease of operational funds.

As a result, the loss is out of any proportion to the savings achieved. In January, in the middle of the national crisis, the Radios had to borrow cash from the German bank. It had to reduce transmitter power and time and reduce even such basic activities as the purchase of books, subscription of papers, and so on.

Free-lance funds, which I know from my own experience are of decisive importance for effectiveness, were slashed by 30 to 40 percent.

Some of the savings indeed result in a waste of money. For example, because the BIB and the Radios were really inhibited against asking for formal authorization of outdated transmitters, they requested in 1975 only 11 transmitters, 250 kilowatts each. Let me add that even the Vatican Radio is now building a 500 kilowatt transmitter. BBC is building 500 kilowatts in West Germany. BIB admits in its report for 1980 that even when these new 11 transmitters will be in operation, the whole huge area of the Soviet Union and Eastern Europe will be beyond the effective reach of the radio transmitters. The Radios broadcast in Uzbek, Kirghiz, Tajiki and Turkoman, in spite of the fact that these broadcasts cannot be heard. It is a sheer waste of money because of the savings.

There is no money in this allocation in 1981 to replace the oldest antiquated transmitters in Europe. Some of them date back to 1950; some of them are even older. There is no money to build. There are more than 21 obsolete transmitters which could be modernized at the expense equalling the cost of one or two tanks, MX–1. This money is being denied.

Mr. HIGHTOWER. Where are these older transmitters?

Mr. NOWAK. They are in Germany. They were there before I even joined the operation. I believe that the relocation to the United States recommended by BIB, which is far from being economical and far from being a financial remedy, will deal a final fatal blow to Radio Free Europe and Radio Liberty. Instead of saving money, it is bound to cause a waste of money. Relocation is opposed by the management, by consultants, and by the State Department.

The Polish American Congress approached the State Department. We were told in unequivocal terms that the State Department is firmly opposed to any relocation even of ten percent of staff and that from the point of view of United States interest, the staff moving from West Germany would be detrimental to the United States interests. The same communication, I understand, was passed to the BIB. The BIB's report to the Congress on relocation, which was written at the request of Senators Glenn and Percy, is a brilliantly written paper which makes an extremely strong case against relocation, even of ten percent of staff, and then ends unexpectedly with the conclusion of transferring eight percent, which frankly would amount to a very small difference.

BIB makes the following points:

1. Physical proximity of Radios to the audience is essential for their effectiveness. Unlike VOA, which projects the United States scene, RFE/RL serves as a substitute to free domestic radio and concentrates on domestic development.

Its ideal place would be Warsaw, or Budapest, or Prague. Since it cannot broadcast from there, it has to broadcast from Europe because these countries are part of Europe. They cannot be influenced effectively from the United States, from the distance of 4,000 miles.

Let me add that the Soviet Union is broadcasting to Iran highly inflammatory propaganda, not even from Moscow, but from Baku on the border of Iran.

2. Decentralized operation is always more expensive than centralized. Each unit, whether it would be Washington or London or Paris, needs its own supportive staff and its own management.

Relocation would increase the cost of communication essential to keep an organization as a compact unit. Relocation would weaken central direction of programming, lead to unnecessary inefficiencies, and reduce program effectiveness.

I am quoting from page 37 of the BIB report.

"Each editorial team," and this, please, is the most important point, "Each editorial team has a certain minimum level. Reducing the staff below this level," and it has been reduced already by 1,106 people, "would reduce its capacity to function effectively."

Of course, adding one or two Radios to Washington or New York or Paris would nourish the operation, but not if it is done at the expense of the hard core of people who are already reduced below the breaking point.

Savings through relocation may prove to be temporary. Please consider that the inflation rate in the USA is four times as high as in Germany. I submit respectfully that the same consideration applied to the dispersal of 75 to 80 positions, which is opposed by BIB, to 60 to 80 positions, which is recommended by BIB, is a means to enrich the program.

Gentlemen, $4.5 million were allocated for this purpose, at the same time BIB cut down its very austere budget by $2.5 million. If the program should be enriched, this $4.5 million should be spent differently to restore the losses which the Radios suffered.

I would like to add one more comment, if I may.

Mr. HIGHTOWER. Go right ahead.

Mr. NOWAK. I would like to say that the Soviet Union is showing a much higher appreciation of the mass media.

In the first place, they are expanding their own facilities relentlessly. Only last February, Cuba started to broadcast in English. The Soviet programs from Moscow are relayed on medium wave transmitters to the Caribbean area in English six hours every night. The broadcasts to Iran and Turkey are nothing more than open war against the United States. Everybody in this room would be shocked if you could read a report that was just recently issued updating the Soviet sinister effort in this area.

$300 million is spent on jamming of Radio Free Europe, Radio Liberty, Radio Iran, and Radio Peking, three times as much as the United States is spending on the program itself. The gap of infor-

mation created by the jam is filled up by indoctrination hostile to the United States and its allies.

The present Administration requests that military budgets should be increased by five percent, but the spending on all three of the Radios should be maintained throughout 1980-83 at the same level as now, creating in my view lacking appreciation of the real nature of the present conflict.

The Soviet Union is increasingly shifting its emphasis to non-military means. It is using shortwave radios as one of its basic means to gain strategic advantages over the United States to indoctrinate people against the United States and its allies. They realize the conflict may be finally decided in the human minds and the transmitters are no less important, although they are much less expensive than missiles.

Thank you very much, Mr. Chairman.

Mr. HIGHTOWER. We appreciate your testimony. Thank you for taking the time to be with us today.

I think what you have had to say will be most helpful to us when we get ready to prepare our report.

Mr. NOWAK. May I ask your permission to include in the record the statistics of personnel reductions?

Mr. HIGHTOWER. Yes.

[The information follows:]

RFE–RL, INC. PERSONNEL COUNT

As of end	RFE	RL	Total
Fiscal year:			
1968	1,793	1,013	2,806
1969	1,730	1,005	2,735
1970	1,668	971	2,639
1971	1,634	953	2,587
1972	1,573	808	2,381
1973	1,532	836	2,368
1974	1,291	734	2,025
1975	1,270	741	2,011
1976 (1st yr of merger)			1,821
1977			1,765
1978			1,749
1979			1,730
1980			1,700

Personnel count:	
1968	2,806
1980	1,700
Total loss (39.5 percent)	1,106
Personnel count 1980	1,700
Relocation reduction	60–80
After relocation	1,620–1,640

TUESDAY, APRIL 15, 1980.

FEDERAL COMMUNICATIONS COMMISSION

WITNESS

JERRY KLEPNER, NATIONAL TREASURY EMPLOYEES UNION

Mr. HIGHTOWER. Mr. Klepner, we will be happy to hear from you at this time.

Do you have a prepared statement?

Mr. KLEPNER. Yes, I do, Mr. Hightower.

Mr. HIGHTOWER. We will insert it in the record and you may elaborate on it as you choose.

[The prepared statement follows:]

Statement of

Vincent L. Connery
National President
National Treasury Employees Union

presented by
Jerry D. Klepner
Director of Legislation

to the
Subcommittee on State, Justice, Commerce and the Judiciary
Committee on Appropriations
U.S. House of Representatives

Honorable Neal Smith
Chairman

Washington, D.C.
April 15, 1980

Mr. Chairman and distinguished members of the Subcommittee, on behalf of the National Treasury Employees Union, I appreciate the opportunity to appear before you today.

Our union is the exclusive representative of over 115,000 Federal workers, including every employee at the Federal Communications Commission (FCC). We have a continuing interest in all legislation affecting Federal employment and personnel policies and we hope to work with Congress to foster a more efficient and stable workforce in agencies throughout the government.

In light of the President's recent announcement that he will recommend further cutbacks in agency budgets for the upcoming fiscal year, we wish to underscore the fact that the original FY 81 request for the FCC was itself inadequate for the purpose of maintaining a consistent level of service to the public. In fact, the amount recommended in the first budget request reflected a total increase of only $950,000 over Fiscal 1980 funding levels. With the cost of goods and services rising at a projected annual rate of 20 percent, it is evident that the FCC budget was stretched tight even before the President decided to implement his latest anti-inflation program.

Because the Commission has received no final word from the Administration on the amount of the proposed cutbacks or the extent of personnel reductions, we can only reiterate the warning expressed by FCC Chairman Charles Ferris when he appeared before this Subcommittee last month. At that time he noted the steady growth in the Commission's workload and the fact that the budget request for Fiscal 1981 contained no significant increase over the previous year. He concluded that the level of service to the public would necessarily decline in the face of continued double digit inflation.

The Commissioner stated, "Since we expect inflationary pressures to continue for the goods and services that we use, and with a steadily rising tide of overall applications and requests for our services, we fully expect a decline in Fiscal Year 1981 in our ability to sustain our current level of service."

We therefore urge the Subcommittee to oppose any further funding cutbacks. We hope that you will stand firmly behind the original requested amount of $77.1 million, which is, indeed, a lean budget for the upcoming year.

Last summer, a report by the Comptroller General of the United States criticized the FCC for its failure to develop an effective system of personnel and resource management. The GAO study identified several shortcomings which undermined the FCC's overall efficiency. Foremost among these were the lack of an upward mobility program to allow experienced employees to realize their full work potential, and the failure to plan for personnel needs beyond the immediate future.

One example of the FCC's shortsighted approach to work force planning is the proposal to consolidate the Private Radio Bureau's Licensing Division in Gettysburg, Pennsylvania. The decision to uproot nearly 100 experienced employees and disrupt the important work of the Licensing Division epitomizes the FCC's failure to fully consider the consequences of its ongoing reorganization efforts.

In July, several members of Congress questioned the wisdom of the proposed move and called upon the GAO to reexamine the relocation plan. The GAO confirmed their doubts in its report released on December 3, 1979, entitled, "FCC's Decision to Consolidate Licensing Division Activities In Gettysburg, Pa. Was Made Without Adequate Justification."

Specifically, the GAO study recommended that the FCC reconsider its decision in order to identify workflow improvements which could be made without consolidation, and to consider whether the projected benefits of the move outweigh the costs associated with achieving them. In short, the GAO concluded that the agency lacked sufficient data to justify the consolidation.

We have carefully evaluated the GAO report and FCC's response, and firmly believe that the efficiency of the Licensing Division will not be enhanced by the move to Gettysburg. During the eight months which have elapsed since the FCC announced its decision, the Commission has not compiled any new information to justify the cost of the move nor the loss of almost 100 experienced employees.

Many of the projected benefits of the consolidation are belied by the Commission's own statistics. For instance, the FCC has consistently maintained that licensing applications will be processed more quickly as the result of improvements made possible only through consolidation. In their response to the GAO investigation, the FCC claimed that significant benefits were already being realized because of the transfer of certain licensing functions. Though the FCC's response did not include any productivity figures which correlate to the transfer of these functions, the FCC indicated that during the previous year, the speeds of service for processing applications in the Business and Land Transportation Radio Services showed dramatic gains at about the same time these functions were transferred to Gettysburg.

Upon closer examination, however, we found that these speed of service improvements do not correspond to the transfer of licensing functions from Washington, D.C. to Gettysburg. In fact, the FCC has published application disposal statistics which clearly show that these gains were achieved while

the licensing activities were still in Washington, D.C.

For instance, the FCC states that in February, 1979, the speeds-of-service for processing applications in the Business and Land Transportation Radio Services were, respectively, 83 and 115 days. One year later, the speeds-of-service for processing these applications are, respectively, 32 and 33 days. The FCC fails to point out, however, that while the Business Service was moved to Gettysburg in August, 1979, processing time had already decreased to 58 days by June, 1979. Similarly, while the Land Transportation Service was transferred in November, 1979, the waiting period had already been reduced to 48 days by October, 1979.

It is evident that the improvements which could and were in fact being achieved by Licensing Division employees before the FCC implemented consolidation were ignored because the agency had already decided to relocate. While FCC officials continue to maintain that a more efficient workflow can be achieved only through consolidation, they have refused to justify this assertion by comparing the expected advantages of the move with possible benefits stemming from a reallocation of resources under the present organization.

In addition to publicizing misleading statistics, the FCC has compiled other data which is clearly contradictory. For example, a December 10 FCC News Release states that the Commission has moved 65 percent of its processing workload from Washington, D.C. to Gettysburg. But in its response to the GAO report more than a month later, the FCC claimed to have transferred only 52 percent of its licensing activities. This contradiction supports our contention that the FCC has used misleading and often inaccurate statistics simply to win support for the reorganization.

The GAO investigators also criticized the employee turnover figures the FCC cited to support its decision to relocate in Gettysburg. These statistics supposedly showed that turnover in Gettysburg was significantly lower than that in Washington, D.C. The GAO study, however, concluded that the FCC should not have included employees who were reassigned or promoted within the Commission in determining workforce stability. The FCC rejected GAC's recommendation, presumably because GAO's methodology yields turnover rates in Washington, D.C. and Gettysburg which are almost identical.

A survey conducted by GAO among the Licensing Division staff in Washington, D.C. indicates that only a fraction of the 101 employees will transfer to Gettysburg. The Private Radio Bureau faces the loss of nearly all of its experienced licensers, including most of its women and minority employees.

The GAO concluded that, in addition to overstating the projected efficiencies of the move, the agency minimized the disadvantages of consolidation, particularly the loss of employees, and the related costs to recruit and train new workers to replace the.

Moreover, the FCC has not adequately confronted the human costs of the move. Almost half of the Licensing Division's employees, most of whom are minorities and women, have not been re-employed. The possibility still remains that they will be unable to find jobs in Washington, D.C. commensurate with their skills and financial needs.

FCC employees and private sector communications experts have warned that the separation of the Licensing Division from the headquarters in Washington, D.C. would impede public access to licensing activities and coordination with other FCC units. In addition to the obvious need for consultation with technical experts and Rules Division employees, application examiners work on a daily basis with representatives of industrial

and public safety groups to expedite licensing procedures. The move to Gettysburg will disrupt this vital link between the public and officials responsible for the effective regulation of private radio use.

Among the groups represented by private firms located in Washington, D.C. are police, fire and rescue operations, as well as construction and energy exploration companies. The added cost and inconvenience to industry representatives and law firms which will result from this geographic dislocation are clearly detrimental to the public interest and must be given careful consideration.

We also wish to bring to your attention a recently released Office of Management and Budget study which recommends against major moves of Federal jobs away from Washington, D.C. The study concludes that the government spends millions of dollars in relocation, moving and travel costs, and that job displacement hurts minority group members most. The OMB report reiterates the doubts expressed by the General Accounting Office about the FCC plan to consolidate its Licensing Division in Gettysburg.

Though the FCC has been reluctant to give our union timely reports on the progress of the move, we are certain that the Commission has accelerated certain licensing activities handled in Washington, D.C. to coincide with the transfers. At the same time, however, application processing in Gettysburg has slowed down. Last June, the processing time in Gettysburg for both Citizens Band and General Mobile licenses was 27 days. In December, the speeds-of-service for Citizens Band and General Mobile licenses were, respectively, 45 and 50 days. Clearly, the FCC is drawing attention to improvements it has made while ignoring those functions which have suffered as the result of neglect. We predict that were the move to be completed, the speeds of service in all the Licensing sections would reach the same levels which would have been achieved had current trends continued without the consolidation.

To date, only three employees have actually been transferred to Gettysburg. As of January 30, 1980, 77 employees were still at their desks in Washington, D.C. Though some files have been moved, the Commission has not, to our knowledge, procured permanent office space in Gettysburg nor has it incurred any large relocation costs.

Despite words of caution from members of Congress and the General Accounting Office, the FCC has attempted to rush completion of the move to avoid a reconsideration of its proposal. Throughout its report, the GAO demonstrated that the cost figures the FCC presented to Congress last summer were incomplete and misleading.

Mr. Chairman, it was on the basis of these alleged "facts" that the House and Senate Subcommittees approved the reprogramming request. Though the FCC has gone to great lengths to give Congress and the public the impression that the move is now irrevocable, we are confident that prompt action by this Subcommittee can avert further implementation of this very costly and ill-conceived plan.

In its earlier report, the GAO also criticized the FCC for the absence of a formal upward mobility program. The Federal Personnel Manual (FPM) requires agencies to establish training and education programs for the upward mobility of lower level employees. While we are currently negotiating an upward mobility program with the FCC to insure that the skills and expertise developed by employees while working at the agency do not go to waste, the FCC continues to fill professional positions from outside the agency.

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With regard to the President's plan to impose a hiring freeze throughout the Federal government, we are greatly concerned about the effect this will have on upward mobility at the FCC. We expect a comprehensive program for employee advancement to be in place shortly and we are hopeful that a freeze on hiring will not prevent lower level employees from filling newly vacated positions.

The policy of outside hiring defies common sense and ultimately undermines the effectiveness of the agency and public trust in the efficiency of government regulations. The investment made by taxpayers to train competent and knowledgeable employees is lost when the agency skips over experienced workers for top positions. This policy contributes directly to low morale and to constant employee turnover.

The instability identified by the FCC in its decision to move its Licensing Division to Gettysburg is not indigenous to Washington, D.C. but to the agency itself, because it lacks a program of moving competent employees up the career ladder. In addition to the loss of efficiency and demoralization of employees, this policy helps maintain a revolving door between the FCC and communications law firms in Washington, D.C.

One final problem at the FCC is the serious shortage of space. The 38,000 square feet which will be added during the current fiscal year will not satisfy the long term needs of the FCC, nor the immediate guidelines for space set forth by the General Services Administration. We are not exaggerating when we report that secretaries, as well as professional employees, are crowded into hallways with filing cabinets, and that attorneys and engineers are doubling-and tripling-up in rooms originally designed for one person.

The first FY 1981 budget request included $2.1 million for additional rental facilities, and we hope that the Commission will not be prevented in the revised budget from utilizing these funds to help alleviate the severe overcrowding problem at the FCC.

Mr. Chairman, this concludes my prepared statement. If you have any questions, my colleagues and I will be happy to answer them at this time.

Thank you.

Mr. KLEPNER. Thank you very much.

With me today is Mr. Ed DeVaughn, President of our Chapter at the Federal Communications Commission, as well as Mr. William Samuel, NTEU Legislative Assistant.

We certainly appreciate the opportunity to appear before you today to discuss the appropriations for the Federal Communications Commission. We realize that we only have a few minutes to comment on this very important subject and in light of that, we would like to specifically direct our statement toward two problems: staffing levels and space within the Commission.

In his testimony before this subcommittee, Chairman Ferris, in commenting upon the first budget request, stated—and I quote:

"Since we expect inflationary pressures to continue for the goods and services that we use, and with a steadily rising tide of overall applications and requests for our services, we fully expect a decline in fiscal year 1981 in our ability to sustain our current level of service."

We are very concerned, with the proposed reduction from the first budget in the second budget request, that there will be an even sharper drop in the level of service to the taxpayer. We have been informed just this morning that in the new budget request there will not be a reduction in the amount requested for programming. However, there will be a very severe reduction in the amount requested for compensation. What this means is that the staffing levels within the Federal Communications Commission will be substantially decreased in fiscal year 1981. What this in turn means is that the service to the public will indeed suffer. We feel very strongly that the staffing levels at the Commission currently are not sufficient and that any cutbacks in the level of staffing, at the very least, as requested in the first budget request, will have an adverse effect on both the employees and the public that the employees serve.

In addition to that, in the first budget request the Commission did seek funding for 38,000 additional square feet of space. We are very hopeful that in the second budget request the Commission will at least maintain that level of funding. Currently employees at the Commission are tremendously overcrowded. We are not exaggerating when we report that secretaries, as well as professional employees, are crowded into hallways with filing cabinets, and that attorneys and engineers are doubling and tripling up in rooms originally designed for one person. Right now the space within the Federal Communications Commission is totally inadequate. Under the first budget request, the 38,000 square feet, we have been told, would not become available and fully operative until September of this year. We feel that this space is needed much quicker and that there should be no reduction in the amount of monies allocated for space and, if anything, the Commission should be strongly urged by this subcommittee to acquire space sooner and make it ready for the employees sooner than September of this year.

In conclusion, we only have one further point and that is after many years of attempts the Chapter at the Federal Communications Commission has finally begun to negotiate an upward mobility program and the actual negotiations will commence on that program within the very near future. We are concerned that with

staffing levels decreasing, and with a substantial lack of funds, that any problem in terms of creating advancement opportunities, in terms of finally putting into place an effective upward mobility program, will be severely hampered. We are hopeful that this will not take place and that this subcommittee will support us in our efforts to implement at the Commission a fair and effective upward mobility program.

With that I would like to thank you very much for giving us the opportunity to testify.

Mr. HIGHTOWER. Thank you very much. We appreciate your testimony today.

Do either of you gentlemen have anything to add?

Mr. SAMUEL. No.

Mr. HIGHTOWER. Thank you very much. The committee will stand adjourned.

OFFICE OF JUSTICE ASSISTANCE, RESEARCH AND STATISTICS

[The following letter from Baltasar Corrada, Resident Commissioner of Puerto Rico, was submitted to the Committee concerning the fiscal year 1981 budget request for the Office of Justice Assistance, Research and Statistics:]

BALTASAR CORRADA
RESIDENT COMMISSIONER, PUERTO RICO

JOSÉ E. DEL VALLE
ADMINISTRATIVE ASSISTANT

COMMITTEES:
EDUCATION AND LABOR
INTERIOR AND INSULAR AFFAIRS

Congress of the United States
House of Representatives
Washington, D.C. 20515

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March 4, 1980

Hon. John M. Slack
Chairman
Subcommittee on State, Justice,
Commerce, and Judiciary
House Committee on Appropriations
Washington, D. C. 20515

Dear Mr. Chairman:

I was very pleased to know that the President's budget proposed a 17 percent increase to fund the restructured Law Enforcement Assistance Administration at $582 million in budget authority.

I believe in the benefits of LEAA programs and they should be properly funded. A 17 percent increase in funding for FY'81 budget is of significant importance since the downward trend of funding is being reversed. I wish to be on record supporting this increase and I trust the Committee of Appropriations will give its approval.

The legislative struggle for reorganizing this agency during the 1st session of this 96th Congress, has really proven to be worth the time and effort expended. However, the funds for the programs are of the utmost importance and they go hand in hand with the administrative changes.

Cordially,

Baltasar Corrada, M. C.
Resident Commissioner, Puerto Rico

Office of Justice Assistance, Research and Statistics

[The following statement from the National Association of Counties was submitted to the Committee concerning the fiscal year 1981 budget request for the Office of Justice Assistance, Research and Statistics:]

Statement by:



National Association of Counties

Offices • 1735 New York Avenue N.W., Washington, D.C. 20006 • Telephone (202) 785-9577

Bernard F. Hillenbrand, Executive Director

STATEMENT OF

THE NATIONAL ASSOCIATION OF COUNTIES

ON

THE LAW ENFORCEMENT ASSISTANCE ADMINISTRATION APPROPRIATIONS

FOR

FISCAL 1981

BEFORE

APPROPRIATIONS SUBCOMMITTEE ON STATE, JUSTICE, COMMERCE AND JUDICIARY

U.S. HOUSE OF REPRESENTATIVES

MARCH 1980

WASHINGTON, D.C.

STATEMENT OF THE NATIONAL ASSOCIATION OF COUNTIES ON LAW ENFORCEMENT ASSISTANCE ADMINISTRATION APPROPRIATIONS FOR FISCAL 1981 BEFORE THE APPROPRIATIONS SUBCOMMITTEE ON STATE, JUSTICE, COMMERCE AND THE JUDICIARY, U.S. HOUSE OF REPRESENTATIVES

THE NATIONAL ASSOCIATION OF COUNTIES* IS OPPOSED TO ELIMINATING THE LAW ENFORCEMENT ASSISTANCE ADMINISTRATION AND OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION THRCUGH THE BUDGETARY PROCESS. NACO SUPPORTS THE GCAL OF REDUCING EXPENDITURES, BUT WE BELIEVE THIS GOAL CAN BE ACHIEVED THROUGH SELECTIVE CUTS AND OUTLAY REDUCTIONS WHICH WOULD PERMIT THE PROGRAMS TO SURVIVE. IF YOU ADOPT NACO'S RECOMMENDATIONS, OUTLINED LATER IN THIS STATEMENT, MANY OF THE GOALS SET BY THE JUSTICE SYSTEM IMPROVEMENT ACT THAT REAUTHORIZED THE LEAA PROGRAM FOR FOUR YEARS LAST DECEMBER COULD BE ACHIEVED.

OF ALL THE PROGRAMS SCHEDULED FOR BUDGET REDUCTIONS BY THE HOUSE BUDGET COMMITTEE, LEAA IS THE ONLY AGENCY IN THE FEDERAL GOVERNMENT TO BE VIRTUALLY ELIMINATED. MOREOVER, THE CONGRESS AND THE ADMINISTRATION JUST COMPLETED A TWO-YEAR REAUTHORIZATION PROCESS FOR LEAA. DURING THAT TIME, THE JUDICIARY COMMITTEE DID A THOROUGH EVALUATION OF LEAA AND FOUND THAT FEDERAL CRIMINAL JUSTICE ASSISTANCE MEETS IMPORTANT NEEDS OF STATE AND LOCAL GOVERNMENTS. IT MADE CHANGES IN LEAA TO ADDRESS CRITICISMS OF THE PROGRAM AND REPORTED TO THE HOUSE OF REPRESENTATIVES THAT THE PROGRAM SHOULD BE REAUTHORIZED. BASED ON THE COMMITTEE'S ANALYSIS THE HOUSE OF REPRESENTATIVES, IN ITS WISDOM, VOTED BY A WIDE MARGIN TO REAUTHORIZE LEAA.

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*THE NATIONAL ASSOCIATION OF COUNTIES IS THE ONLY NATIONAL ORGANIZATION REPRESENTING COUNTY GOVERNMENT IN THE UNITED STATES. THROUGH ITS MEMBERSHIP, URBAN, SUBURBAN AND RURAL COUNTIES JOIN TOGETHER TO BUILD EFFECTIVE, RESPONSIVE COUNTY GOVERNMENTS. THE GOALS OF THE ORGANIZATION ARE: TO IMPROVE COUNTY GOVERNMENT; TO SERVE AS THE NATIONAL SPOKESMAN FOR COUNTY GOVERNMENTS; TO ACT AS A LIAISON BETWEEN THE NATION'S COUNTIES AND OTHER LEVELS OF GOVERNMENT; AND TO ACHIEVE PUBLIC UNDERSTANDING OF THE ROLE OF COUNTIES IN THE FEDERAL SYSTEM.

THE CLOSELY RELATED ISSUE OF WHETHER TO REAUTHORIZE THE OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION IS BEING CONSIDERED IN THE EDUCATION AND LABOR SUBCOMMITTEE ON HUMAN RESOURCES. THE SUBCOMMITTEE HAS HEARD TESTIMONY FROM WITNESSES, RANGING FROM JUVENILE COURT JUDGES TO YOUTH ADVOCATES AND FROM FEDERAL, STATE AND LOCAL OFFICIALS, PRAISING THE ACCOMPLISHMENTS OF THE JUVENILE JUSTICE PROGRAM AND RECOMMENDING THAT IT BE CONTINUED. ELIMINATING OJJDP THROUGH BUDGET CUTS, AT A TIME WHEN THE LEGISLATIVE MANDATES OF DEINSTITUTIONALIZING STATUS OFFENDERS AND SEPARATING CHILDREN FROM ADULTS IN JAIL ARE CLOSE TO BEING ACHIEVED, WOULD BE A SIGNIFICANT BREACH OF FAITH BY CONGRESS. KILLING THE PROGRAM ALSO WOULD REPUDIATE THE OVERWHELMING BIPARTISAN MAJORITIES WHICH HAVE PASSED AND REAUTHORIZED THE JUVENILE JUSTICE ACT TWICE SINCE 1974.

FOR THE BUDGET COMMITTEE TO NEGATE THE EXTENSIVE WORK DONE BY THE JUDICIARY AND EDUCATION AND LABOR COMMITTEES AND TO CONTRAVENE THE EXPRESSED WILL OF THE HOUSE IS, IN NACO'S VIEW, A PERVERSION OF THE LEGISLATIVE PROCESS.

IF THE GOAL OF CONGRESS IS INDEED TO REDUCE OUTLAYS -- AN ISSUE FOR THE APPROPRIATIONS AND BUDGET COMMITTEES, AND NOT TO KILL THE PROGRAM -- AN ISSUE FOR THE JUDICIARY AND EDUCATION AND LABOR COMMITTEES, THEN NACO WOULD APPRECIATE YOUR SERIOUS CONSIDERATION OF OUR RECOMMENDATIONS.

METHODS FOR REDUCING LEAA OUTLAYS IN FY '81

NACO PROPOSES THAT LEAA BE REQUIRED TO ADOPT THE FOLLOWING THREE-PART STRATEGY TO REDUCE ITS OUTLAYS IN FY '81 BY AT LEAST $104 MILLION.

1. DELAY SUBMISSION OF FY '81 FORMULA, NATIONAL PRIORITY AND DISCRETIONARY GRANT APPLICATIONS FOR A FISCAL QUARTER, SO THAT THE FIRST AWARDS ARE NOT MADE UNTIL JANUARY OR FEBRUARY, 1981.

2. ADJUST THE POLICY FOR USE OF FUNDS: NOW THEY CAN BE SPENT OVER A THREE-YEAR PERIOD -- THE AWARD YEAR PLUS TWO. CHANGE THIS TO ALLOW EXPENDITURES OVER A FOUR-YEAR PERIOD -- THE AWARD YEAR PLUS THREE.

3. NEGOTIATE, ON A STATE-BY-STATE BASIS, AGREEMENTS TO REDUCE FY '81 OUTLAYS. STATES WITH SIGNIFICANT AMOUNTS OF UNAWARDED FUNDS SHOULD BE ASKED TO FORMALLY AGREE TO SLOW THE DISTRIBUTION OF THESE FUNDS.

PROPOSED CUTS IN THE FY '81 BUDGET

NACO RECOMMENDS THE FOLLOWING CUTS IN LEAA'S FY '81 BUDGET. THEY WOULD REDUCE OUTLAYS BY $20.6 MILLION, IN ADDITION TO THE REDUCTIONS ACHIEVED BY TAKING THE STEPS LISTED ABOVE.

FORMULA GRANT PROGRAM RETAINS FY '80 LEVEL WHICH WAS A $100 MILLION REDUCTION FROM FY '79	-$ 58 MILLION
NATIONAL PRIORITY AND DISCRETIONARY GRANT PROGRAM MAINTAINS CONGRESSIONALLY MANDATED RATIO WITH FORMULA GRANT PROGRAM	- 15 MILLION
OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION REDUCES PROGRAM FROM FY '80 LEVEL, BUT THE CUT WOULD NOT SERIOUSLY DAMAGE THE PROGRAM, BECAUSE THERE HAS BEEN A SLOW OUTLAY OF FUNDS	- 25 MILLION
OFFICE OF COMMUNITY ANTI-CRIME PROGRAMS ELIMINATES INCREASE OVER FY '80	- 5 MILLION
TOTAL REDUCTION IN BUDGET AUTHORITY:	-$103 MILLION

IMPACT OF ELIMINATING LEAA

THE $104 MILLION REDUCTION IN OUTLAYS THAT WOULD BE ACHIEVED BY ELIMINATING LEAA AND OJJDP REPRESENTS ONLY .6 PERCENT OF THE TOTAL $16.5 BILLION CUT IN FEDERAL SPENDING RECOMMENDED BY THE BUDGET COMMITTEE. THIS CONTRIBUTION TO BALANCING THE BUDGET IS MINIMAL, AND YET THE BUDGET COMMITTEE RECOMMENDATION, IF APPROVED, WOULD HAVE AN IMMEDIATE AND DEVASTATING EFFECT ON STATE AND LOCAL GOVERNMENTS.

* INTERGOVERNMENTAL COOPERATION AND CRIMINAL JUSTICE COORDINATION, PERHAPS THE MOST SIGNIFICANT CONTRIBUTION OF THE LEAA PROGRAM, WOULD BE DISRUPTED.

* MANY SUCCESSFUL PROGRAMS FUNDED BY LEAA -- CAREER CRIMINAL PROSECUTION, STATEWIDE COURT REFORM, IMPROVED JURY MANAGEMENT, TRAINING OF COURT AND LAW ENFORCEMENT PROFESSIONALS, ANTI-FENCING PROJECTS, VICTIM-WITNESS ASSISTANCE -- WOULD BE CUT-OFF FROM CONTINUATION FUNDING PREMATURELY AND OTHERS WOULD BE CURTAILED.

* AT LEAST 40,000 PERSONS WOULD LOSE THEIR JOBS. OF THESE, APPROXIMATELY 40 PERCENT WOULD BE YOUTH WORKERS. YOUNG PEOPLE WHO ARE NOW IN COMMUNITY BASED FACILITIES WOULD HAVE TO BE TRANSFERRED TO JAILS OR RELEASED INTO THE COMMUNITY.

* NO NEW APPLICATIONS FOR INNOVATIVE PROGRAMS WOULD BE DEVELOPED OR ACCEPTED AFTER THE PROGRAM TERMINATION IS ANNOUNCED. THE OPPORTUNITY FOR DISCOVERING NEW METHODS FOR IMPROVING THE CRIMINAL JUSTICE SYSTEM AND CONTROLLING CRIME WOULD BE LOST.

* EFFORTS TO REMOVE STATUS OFFENDERS FROM SECURE DETENTION FACILITIES AND TO SEPARATE JUVENILES FROM ADULTS IN ADULT CORRECTIONAL FACILITIES WOULD BE UNDERMINED. AS A CONDITION OF RECEIVING ASSISTANCE FROM OJJDP, 52 STATES AND TERRITORIES HAVE AGREED TO TAKE THESE STEPS. OF THE 37 STATES REQUIRED TO REMOVE 75 PERCENT OF THE STATUS OFFENDERS IN SECURE DETENTION IN 1974, 34 HAVE ACCOMPLISHED THE GOAL. IN THE NEXT TWO YEARS ALL STATES PARTICIPATING IN THE JUVENILE JUSTICE

PROGRAM MUST REACH 100 PERCENT DEINSTITIONALIZATION.

EVEN IF OJJDP IS FUNDED AT THE $100 MILLION LEVEL PROPOSED BY PRESIDENT CARTER IN EARLY JANUARY, ANY SUBSTANTIAL CUT IN LEAA'S FY '81 BUDGET WOULD HAVE A SEVERE NEGATIVE, IF NOT FATAL, IMPACT ON THE JUVENILE JUSTICE PROGRAM.

WE HAVE THREE REASONS FOR THIS ASSESSMENT: FIRST, 19.15 PERCENT OF THE FUNDS APPROPRIATED FOR LEAA MUST BE DEVOTED TO JUVENILE JUSTICE AND DELINQUENCY PREVENTION PROGRAMS. IF LEAA IS ELIMINATED, THERE WOULD BE ABOUT $74 MILLION LESS AVAILABLE FOR THESE PROGRAMS. SECOND, THE JUVENILE JUSTICE ACT FORMULA GRANT PROGRAM IS ADMINISTERED BY THE STATE CRIMINAL JUSTICE COUNCILS (FORMERLY STATE PLANNING AGENCIES), MOST OF WHICH COULD NOT FUNCTION WITHOUT LEAA FUNDS. WHILE STATES MAY USE UP TO 7.5 PERCENT OF THEIR JUVENILE JUSTICE ACT FUNDS FOR PLANNING, MONITORING AND ADMINISTRATION, MOST JUVENILE JUSTICE SPECIALISTS DEPEND UPON THE STATE CRIMINAL JUSTICE COUNCIL APPARATUS TO ASSIST THEM IN THEIR WORK. AND, THIRD, OJJDP'S ADMINISTRATIVE BUDGET IS NOT A PART OF ITS APPROPRIATION, RATHER, IT COMES FROM THE ADMINISTRATIVE BUDGET OF LEAA. IF LEAA RECEIVES NO MONEY, THERE WOULD BE NO FUNDS TO ADMINISTER THE OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION.

Office of Justice Assistance, Research and Statistics

[The following letter from Linda D'amario, on behalf of the National Association of State Juvenile Deliquency Program Administrators, was submitted to the Committee concerning the fiscal year 1981 budget request for the Office of Justice Assistance, Research and Statistics:]

LINDA D'AMARIO VICE PRESIDENT NA
610 MOUNT PLEASANT AVE
PROVIDENCE RI 02908

western union Mailgram

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4012776525 MGM TDMT PROVIDENCE RI 219 03-28 0203P EST

CONGRESSMAN NEIL SMITH
ATTN JOHN OSTHAUS
WASHINGTON DC 20510

WE ARE WRITING TO YOU ON BEHALF OF THE NATIONAL ASSOCIATION OF STATE JUVENILE DELINQUENCY PROGRAM ADMINISTRATORS ABOUT PROPOSED BUDGET CUTBACKS RELATIVE TO THE OFFICE JUVENILE JUSTICE AND DELINQUENCY PREVENTION AND THE LAW ENFORCEMENT ASSISTANT ADMINISTRATION. WE UNDERSTAND THE HOUSE BUDGET COMMITTEE HAS VOTED TO TOTALLY ELIMINATE THESE TWO VITAL PROGRAMS. THE APPROPRIATION COMMITTEE CHAIRED BY CONGRESSMAN JAMIE WHITTEN WILL ADDRESS THIS MATTER SOON.

ON BEHALF OF THE YOUNG PEOPLE OF OUR NATION WE WOULD LIKE TO SOLICIT YOUR SUPPORT IN SIGNIFICANTLY MODIFYING THE PROPOSED CUTBACK SPECIFICALLY AS IT RELATES TO THE OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION. CUTBACKS IN THIS PROGRAM WILL SERIOUSLY HINDER THE STATES ABILITY TO MAINTAIN AND IMPROVE VITAL PROGRAMS IN THIS AREA. SUCH AN ACT WOULD BE RECKLESS AND THE RAMIFICATIONS QUITE COSTLY BOTH IN THE SOCIAL AND ECONOMIC WORLDS.

WE WILL APPRECIATE YOUR SUPPORT IN THE HOUSE SUBCOMMITTEE ON THIS IMPORTANT ISSUE AND ANY SUPPORT YOU CAN LEND IN THE SENATE.

THE NATIONAL ASSOCIATION OF STATE JUVENILE DELINQUENCY PROGRAM ADMINISTRATORS WISH TO THANK YOU FOR YOUR CONSIDERATION IN THIS MATTER. I, AS VICE PRESIDENT, WANT YOU TO KNOW OUR CONCERN IS NOT LIMITED TO INDIVIDUAL STATES BUT AS IT WILL IMPACT OUR NATION AS A WHOLE. YOURS TRULY
LINDA D'AMARIO VICE PRESIDENT NASJDPA

14:03 EST

MGMCOMP MGM

General Administration, Department of Commerce

[The following letter from Michael Scott, who is legal counsel for the National Collegiate Athletic Association, was submitted to the Committee concerning the fiscal year 1980 supplemental budget request for the General Administration, Department of Commerce:]

SQUIRE, SANDERS & DEMPSEY

21 DUPONT CIRCLE, N. W.
WASHINGTON, D. C. 20036
TELEPHONE (202) 862-7000
CABLE "COXFIRM" TELEX "CLXB 440003"
DIRECT DIAL NUMBER

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COLUMBUS, OHIO 43215

2 SOUTH BISCAYNE BOULEVARD
MIAMI, FLORIDA 33131

1800 UNION COMMERCE BUILDING
CLEVELAND, OHIO 44115

AVENUE LOUISE, 165-BOX 15
1050 BRUSSELS, BELGIUM

862-7032

April 15, 1980

The Honorable Neal Smith
Acting Chairman, Subcommittee
on State, Justice Commerce and
Judiciary
Committee on Appropriations
Room H218, Capitol Building
Washington, D. C. 20515

Dear Chairman Smith:

As I believe you are aware, this firm acts as counsel in Washington to the National Collegiate Athletic Association (NCAA).

On April 1, David L. Maggard of the NCAA appeared before your Subcommittee to present the Association's testimony in opposition to a proposed appropriation of funds to support the programs of the United States Olympic Committee.

The thrust of Mr. Maggard's testimony related to the need for an enforceable domestic arbitration mechanism, to determine national governing body status. On page 11 of his prepared statement, reference was made to two amendments to the USOC Constitution, then pending for consideration by the USOC's House of Delegates, passage of which was described by Mr. Maggard as being tantamount to

> . . . saying that national governing body status is going to be finally decided in this country by domestic institutions, and not by private entities abroad. It seems to us that only in such circumstances is the USOC really entitled to seek public taxpayer funds to assist it in its programs.

Subsequent to Mr. Maggard's testimony, we learned that the more significant of the two amendments -- requiring that an incumbent national governing body resign its position in the event it loses a "challenge" arbitration -- had been formally endorsed by the Athletes' Advisory Council (AAC) of the USOC, as well as by several multi-sport organizations in the school-college community. The AAC represents the interests of amateur athletes in USOC affairs, and is composed of active and recently-active amateur athletes.

Please be advised that at its meeting last Saturday, April 12, the USOC House of Delegates, composed principally by incumbent national governing bodies, defeated both amendments by wide margins. Needless to say, this action came as a considerable disappointment to the NCAA, but as a consequence, the NCAA remains strongly opposed to the appropriation.

We provide this advice in the hope that the record on the hearings of the Subcommittee on this proposed appropriation has not yet been closed, and if not, that this letter may be included in the record for sake of completeness.

Thank you for your assistance.

Very truly yours,

Michael Scott

cc: Mr. John Osthaus

BUREAU OF THE CENSUS

[The following letter from John H. Aiken on behalf of the Federal Statistics Users' Conference, was submitted to the Committee concerning the fiscal year 1981 budget request for the Bureau of the Census:]

FEDERAL STATISTICS USERS' CONFERENCE

1030 FIFTEENTH STREET, N.W. • WASHINGTON, D.C. 20005

Chairman:
ELEANOR M. JOHNSON
Irving Trust Company

Vice Chairmen:
GEORGE V. B. DAY
The Aluminum Association, Inc.
CONRAD F. TAEUBER
The Population Association of America, Inc.
LAZARE TEPER
International Ladies' Garment Workers' Union
J. R. PETERSON
Mississippi Research and Development Center

Secretary-Treasurer
FREDERICK N. SASS

Executive Director:
JOHN H. AIKEN

Area Code: 202
393-3522

March 10, 1980

The Honorable John M. Slack, Chairman
House Appropriations Subcommittee
State, Justice, Commerce and Judiciary
Capitol Building, Room H309
Washington, D. C. 20515

Dear Chairman Slack:

On behalf of the Federal Statistics Users' Conference, I wish to express our serious concern over the fact that the President's Budget for the Bureau of the Census for Fiscal 1981 did not include any funds for the continued planning of the Mid-Decade Census Program. We ernestly request that your Committee give every consideration to providing, at the very least, the $1.9 million requested for this program by the Census Bureau for 1981, and which request was denied by the Office of Management and Budget.

We respectfully suggest that it would be appropriate for your Committee to request the Census Bureau to provide the Committee with information as to the amount and geographical level of data that would be provided by the proposed mid-decade statistical activity, the amount and geographical level of data that would be provided by various expansions of the program, and the costs involved in each such expansion. We question whether the proposed program would provide adequate data to serve the needs of Federal, State and local governments in mid-decade as well as a wide range of statistics users in the private sector. If no funds are provided for a mid-decade statistical activity on a large-scale sample basis, we also question whether the intercensal estimates program, now included in the present budget would meet governmental needs at mid-decade. The latter program for 1981 includes $2.7 million for the ongoing periodic program and approximately $8 million for a one-time program proposed for 1981 that would provide for IRS coding of place of residence information from 1980 individual income tax forms.

The total cost of the Mid-Decade program as proposed by the Census Bureau would be around $250 million that would be spread out over a period of six years. The program called for a large-scale survey that would provide data at the national level and for some large SMSA's. However, when this program was discussed at the FSUC Annual Meeting in November, a number of statistics users expressed their concern that the sample survey proposed would not provide for small area data and some recommended that the Mid-Decade statistical program should make information available at the census tract level. It was recognized that such a program need not cover all the details of a full-scale census and there would be willingness to sacrifice data content for the sake of greater geographical precision. Regarding the sample survey proposed, one of our members said: "It would be a shame, in my opinion, to spend that money to produce a result of extremely limited usefulness for a great majority of the users of census data."

FSUC played a major role in supporting legislation for a Mid-Decade Census during the past 12 to 15 years. We also alerted the statistical user community to the various hearings that were being held. Many individuals responded to this alert by submitting statements or presenting testimony in support of the Mid-Decade Census. Having finally succeeded in obtaining passage of the legislation in 1976, it is disheartening to find that the Administration does not see fit to appropriate funds to carry out the objectives of the Act.

Although we support the President in calling for budgetary restraint and for selected essential increases in areas of high priority in the 1981 Budget, the mid-decade statistical activity is considered a high priority item for statistics users. The failure to provide funds in the 1981 Budget for continued planning of the mid-decade program is of real concern to the statistics user community and especially to State and local governments. If it is the intent of the Administration to kill any efforts to collect adequate population data in mid-decade, then it will have negated the intent of Congress when it enacted legislation authorizing the Mid-Decade Census.

An appropriation of $1.9 million for this program in Fiscal 1981 would not have any great impact upon the total Federal budget or even upon the total statistical budget for all agencies.

The need for small area data is so strong among statistics users that most would urge a much larger sample survey than that proposed in order to provide the level of geographical detail that would be adequate to serve their needs. Admittedly, the cost would be greater, but the benefits would justify the expenditure. When FSUC surveyed its members in 1971 regarding proposals for a Mid-Decade Census, it found that 95.4 percent were in favor of a mid-decade census to be taken in 1975. The survey showed that there is an extremely high degree of interest and definite need for data at the small area level in a mid-decade census. More than 50 percent of the respondents indicated a need for data at the county, urban place, or census tract level, for every single population and housing item included in the 1970 Census.

The Congress also recognized this need when it enacted the legislation authorizing the Mid-Decade Census. The support manifested in the hearing on the legislation was almost entirely in support of an undertaking that would provide small area population statistics.

It is surprising that the President's Budget treats demographic statistical programs as a low priority item in funding when it emphasizes that "demography is the most significant factor affecting the budget that is fairly predictable." This emphasis appears in the discussion of "The Longer Range Budget Outlook", pages 48 through 58 of the Budget for Fiscal Year 1981. It states: "The Federal Government exists to serve the needs of the American people. The size and composition of its budget, therefore, is a reflection of the size and composition of the U.S. population, and the needs of various segments of that population. The budget is particularly sensitive to the age structure of the population, because many programs (e.g., education and retirement) serve specific age groups."

I sincerely hope that our comments and suggestions will be helpful to your Committee in its review of the Census Bureau's budget and programs for Fiscal 1981. FSUC is an association composed of organizations that are generally classified as business firms, labor unions, nonprofit research organizations, State and local governments, and trade associations. These members have a common interest in obtaining adequate, timely and reliable information from Federal programs in the light of certain criteria which FSUC has established, the principal one being that a statistical program should provide data of optumum usefulness at minimum cost. Our members rely heavily upon the statistics prepared and issued by the Bureau of the Census. We believe that the Nation and the government would suffer a tragic loss if action is not taken to provide funds in Fiscal Year 1981 for a mid-decade statistical activity of sufficient magnitude to serve our data needs. This will require lead time and advance planning and any delay would imperil the program.

Respectfully yours,

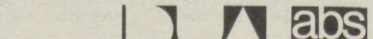
John H. Aiken

John H. Aiken
Executive Director

JHA/bg.

BUREAU OF THE CENSUS

[The following letter from J. C. Beresford, President of Data Use and Access Laboratories, was submitted to the Committee concerning the fiscal year 1981 budget request for the Bureau of the Census:]



DATA USE AND ACCESS LABORATORIES, Suite 900, 1601 N. Kent St., Arlington, Va. 22209 • 703 525-1480

March 31, 1980

Honorable Neal Smith, Acting Chairman
House appropriations Subcommittee
State, Justice, Commerce and Judiciary and Related agencies
Room #218
U. S. Capitol
Washington, D. C. 20515

Dear Mr. Chairman:

This letter is submitted as written testimony for the hearings on the FY 1981 budget for the Bureau of the Census. A reading of Hearings on the Bureau of the Census Budget for FY 1980, March 5, 1979 makes no mention of the fact that the Bureau was then planning to use FY '80 funds for a purpose which is not authorized by Title 13 and which does not involve providing statistics. That purpose is to create a computer program system, called CENSPAC, which the Bureau plans to sell to the general public in competition with other systems already developed by private initiative and in use for a decade.

The FY 1981 budget hearings will be concerned with the need for economy and budget cuts; and also with the need for a complete Census processed quickly and accurately. I believe the Bureau's CENSPAC activity does not contribute anything to the Bureau's authorized and just purposes. It is, therefore, a candidate for a budget cut.

THE USE OF TAX-DOLLARS TO DEVELOP CENSPAC

CENSPAC is being produced with funds from FY '80. The Bureau says it will be sold to the public for $80. This price recovers only the cost of making and shipping a copy of CENSPAC. As there is no plan to recover the costs of creating CENSPAC or helping people use it, it follows that appropriated funds are being used for those purposes.

CENSPAC COMPETES WITH EXISTING PRIVATE SECTOR SOFTWARE

On September 21, 1978, a Bureau official said to the members of the Association of Public Data Users, on announcing CENSPAC, that it "would be similar to the MOD-series". The MOD-Series is the name of software developed 10 years ago by DUALabs and widely used by people we help in

their application of census data. The Census Bureau provision of software similar to the MOD-series competes with the well-established MOD-series but can destroy its market because the Bureau virtually gives CENSPAC away free.

CENSPAC NOT AUTHORIZED BY CONGRESS

The laws authorizing the activities of the Bureau of the Census do not authorize it to develop and sell software, hardware, or other technical tools for the use of machine-readable data.

CENSPAC CONTRARY TO NATIONAL POLICY

Our nation supports free enterprise and encourages private sector development of goods and services. It is contrary to Department of Commerce policy to negate the positive effects of private enterprise and to disrupt established markets. It is surprising that a Bureau of the Department of Commerce is the agent of such negation and disruption.

CENSPAC DEVELOPED WITHOUT COST STUDY REQUIRED BY OMB CIRCULAR A-76

If Congress were to decide that a subsidized software system to help data users were in the public interest it seems likely that a cost study would be made to determine the least expensive and most effective way to obtain the system. OMB Circular A-76 requires such studies of Federal agencies when they make "new starts". On September 26, 1978, I wrote a letter to Courtenay Slater, Chief Economist of the Department of Commerce, noting that the Bureau's plans to sell software to users represented a "new start" and that an A-76 cost study was required. Almost five months later (February 16, 1979) she wrote to me to say that the CENSPAC development did not fall within purview of OMB Circular A-76 since it's not a "new start". The Office of the Inspector General studied the matter and, on June 4, 1979, submitted a report which found her in error.

The Office of Inspector General, Office of Audits, Special Review for Controller Report No. AD-105-00-0700-79-006 is titled "Review of In-House Development of Computer Software Applicable to the Bureau of the Census-Data User Service Division". It recommends to the Controller, Department of Commerce, that an A-76 cost study be conducted for future work in helping users apply CENSPAC. The study finds that the work the Bureau has already done "could be contracted out to the private sector" and "that Census should have prepared an OMB Circular A-76 Study" for the work on CENSPAC done by the time of the study. Although the Office of Inspector General overruled the Chief Economist of Commerce, the Commerce

Controller and the Bureau of the Census have not followed the recommendations of the study, claiming that most of the money has already been spent and there is not enough left to spend to justify an A-76 review. No evidence for this claim has been provided and without a cost study and budget analysis, it would be impossible to provide such evidence.

AN APPROPRIATE BUDGET CUT

In these times of inflation and budget-cutting, even necessary programs are being reduced or cut. In preparing CENSPAC, the Bureau of the Census used some of the money allocated to it last year for a purpose not authorized by Congress and contrary to the policies of the U. S. government. In any case, the CENSPAC activity is unnecessary because it duplicates an activity already performed by the private sector.

It would be appropriate if Congress were to block further work on CENSPAC activities. It would be fitting and equitable if Congress were to cut the Bureau of Census budget by the amount already used to produce CENSPAC and the amount needed to distribute CENSPAC. (The Bureau of the Census could sell CENSPAC at a price which would recover the money inappropriately spent and use the income for purposes specified by Congress.)

INVESTIGATION APPROPRIATE

The record of the Office of Audit study demonstrates that the Census Bureau and the Department of Commerce have been in error in their judgements about how they spent money on CENSPAC. How many other activities is the Bureau planning or preparing which are, in effect, commercial services to the general public being prepared at taxpayers' expense? Is the Bureau planning to offer services in Summary Tape file processing? Public use microdata file processing? Consultation in the use of census data? These are all services being offered now by the private sector. What fees will the Bureau charge? What will it do with these fees?

Investigation of these and related questions is appropriate to determine what uses the Bureau plans to make of tax dollars they do not use for the collection and provision of statistics. Investigation is also appropriate to determine whether these tax dollar uses interfere with established private sector activities.

Sincerely,

J. C. Beresford
President

National Oceanic and Atmospheric Administration

[The following statement from the Honorable Kika de la Garza, Member of Congress, was submitted to the Committee concerning the fiscal year 1981 budget request for the National Oceanic and Atmospheric Administration:]

STATEMENT BY THE HONORABLE KIKA DE LA GARZA
BEFORE THE SUBCOMMITTEE ON STATE, JUSTICE,
COMMERCE AND JUDICIARY

April 15, 1980

Mr. Chairman, Members of the Subcommittee, I deeply appreciate this opportunity to present to you my request for assistance in a matter of critical importance to my constituents in the Lower Rio Grande Valley in Texas. I hasten to point out that I am not here to seek additional funding; I fully appreciate the budgetary constraints under which you must report a bill. I am, however, requesting that the Subcommittee consider including some suggested report language that would greatly help toward solving our immediate problem.

The problem is this: because of the current status of the Brownsville Texas Weather Service Office, farmers in our area have been receiving less than adequate weather service information. As you can well appreciate, the most accurate and timely weather information is absolutely critical to effective farming. While the National Weather Service has been helpful and has assured us that it is addressing the problem, the fact remains that the current status of this weather station ensures inadequate weather forecasting for some time to come.

Permit me, if I may, to present some basic facts regarding this situation and then to offer some suggested

report language.

The agricultural forecasting responsibilities in this area, as in any other area heavily dependent on agriculture, are of primary importance which cannot be overstated. The Texas Citrus Industry alone provides a half billion dollars in this area. Hildalgo County is the number one county in Texas for cash farm income, and Cameron County is number ten. The credibility and applicability of the service now being received is not at a level to warrant confidence among the agricultural community.

The basic problem is twofold. First, because Brownsville is a "Weather Service Office" (WSO) and not a "Weather Service Forecasting Office" (WSFO), its staff must use weather data complied in San Antonio, a city nearly 300 miles away, and adapt it to an area and terrain vastly different from that of the San Antonio region. The result, of course, is weather information that is usually inaccurate, untimely and, ultimately, unreliable.

Secondly, because of its WSO designation, the Brownsville station is limited to staffs with GS-11 or below designations. This poses a serious problem of maintaining a high standard of quality and continuity. With the valley being an isolated area, it is not very attractive to new meteorologists. Furthermore, as I understand the problem,

interns can go to the GS-11 level without moving, so there is little incentive for interns within the system to apply for vacancies at WSO Brownsville. With this pay scale limitation, it is difficult to fill forecaster vacancies; thus they usually have to operate with interns with very little, if any, experience. Obviously it is difficult, if not impossible, to maintain continuity and a high quality forecast program, leaving a multi-billion dollar agricultural industry wide open for weather disasters.

Ideally, of course, the best solution would be to give the Brownsville WSO full zone forecast responsibility and upgrade forecasters there to the GS-12 level. Given federal budgetary constraints this may not prove a realistic way to tackle the problem. I feel confident, however, that a creative solution can be arrived at within available funds and thus we would appreciate the Subcommittee's consideration of the following suggested languange for inclusion in your Committee report:

> Suggested Report Language:
>
> The Committee is concerned with the quality of weather forecasting services being provided to various sectors of the agricultural community: reliable and accurate weather forecasting is critical to our agricultural economy. A case in point involves the Brownsville Texas Weather Service Office which must develop a forecast for this important agricultural area based on adaptations from the San Antonio office, 280 miles away. The Committee encourages NOAA to actively seek methods of improving the quality of weather service for the agricultural community within the available funds.

Thank you very much for allowing me this opportunity. Your kind consideration of this request is deeply appreciated by me and the farmers of the Lower Rio Grande Valley.

UNITED STATES TRAVEL SERVICE AND IMMIGRATION AND NATURALIZATION SERVICE

[The following statement from William D. Toohey, President of Discover America Travel Organizations, was submitted to the Committee concerning the fiscal year 1981 budget requests for the United States Travel Service and for the Immigration and Naturalization Service:]

DISCOVER
AMERICA
TRAVEL
ORGANIZATIONS, INC.

THE NATIONAL ASSOCIATION
OF THE U.S. TRAVEL INDUSTRY

1899 L Street, Northwest, Washington, D.C. 20036 • (202) 293-1433

APR 1 1980

March 28, 1980

The Honorable Neal Smith
Chairman
Subcommittee on State, Justice,
Commerce and the Judiciary
House Appropriations Committee
H-309 Capitol
Washington, D.C. 20510

Dear Congressman Smith:

I am writing this letter to you in your capacity as Chairman of the Subcommittee on State, Justice, Commerce and the Judiciary of the Committee on Appropriations of the U.S. House of Representatives. This letter concerns the hearings being held on April 1 and April 3, specifically the Fiscal Year 1981 budget request for the United States Travel Service and Immigration and Naturalization Service.

I am President of Discover America Travel Organizations, Inc. the Travel Industry Association of America. DATO's membership consists of individuals from more than 1,200 organizations and businesses: states and territorial travel offices; local convention and visitors bureaus; travel-related associations and individual companies, including airlines, bus lines, hotels and travel attractions.

At the Senate hearings on March 5, twenty-four national travel industry organizations embraced our testimony that favors passage of S.2248, a one-year stop-gap measure introduced by the Senate Subcommittee on Merchant Marine and Tourism (copy of testimony is attached). Enactment of the bill would countermand an Administration Fiscal Year 1981 budget proposal that could undercut the effectiveness of the United States Travel Service, the federal government's international travel promotion arm.

Continued. . .

Chairman
Roger Manfred
President & Chief Executive Officer
TrustHouse Forte Inc
& TraveLodge International, Inc
250 TraveLodge Drive
El Cajon, California 92090

First Vice Chairman
Peter V. Ueberroth
President
Los Angeles Olympic Organizing Committee
10100 Santa Monica Blvd
Los Angeles, California 90067

Second Vice Chairman
Edward R. Book
Chairman of the Board & President
Herco Inc
One Chocolate Avenue
Hershey, Pennsylvania 17033

President
William D. Toohey
President
Discover America Travel Organizations, Inc
1899 L Street, N.W.
Washington, D.C. 20036

Secretary
Betty Blake
President
Betty Blake & Co
322 East Fourth Street
Cincinnati, Ohio 45202

Treasurer
Gabriel Phillips
Vice President - Traffic Services
Air Transport Association of America
1709 New York Avenue, N.W.
Washington, D.C. 20006

It is the industry's view that restructuring USTS in the manner proposed by the Administration would substantially diminish the international travel promotion activities of the federal government in contradiction to the International Travel Act of 1961. The Administration is proposing the elimination of the USTS as presently structured as a separate agency headed by an Assistant Secretary within the Department of Commerce and the transfer of certain of its functions to the International Trade Administration. The proposal ignores the action taken last year by unanimous vote of the Senate approving the National Tourism Policy Act (S.1097) which provides for the incorporation of the USTS operation and budget as part of a federally chartered nonprofit corporation.

The National Tourism Policy Act consists of three parts:

- Enact into law a National Tourism Policy (Title I).
- Establish a Cabinet-level Coordinating Council to coordinate that National Tourism Policy with other public policies such as economic growth with a minimum of inflation, full employment, energy conservation, reduction of international trade deficits and elimination of excessive government regulation of the private business sector (Title II).
- Establish a non-profit federally chartered corporation as an agency to implement the National Tourism Policy (United States Travel and Tourism Development Corporation) (Title III).

We respectfully urge this Committee to appropriate $8 million for the USTS in Fiscal Year 1981,thereby continuing its existing essential overseas marketing programs and allowing adequate time for an orderly transition to a new federal tourism policy and the coordinating and implementing mechanism as set forth in the legislation now pending in the House.

We also assert that appropriations for the Immigration Service should be allocated to effectively meet this country's commerce and international travel needs. In view of a continued successful overseas marketing program and the increase in foreign travelers to this country, we must provide sufficient funding and staffing to conduct required immigration inspections without penalizing the traveling public. Presently, the lack of this funding has created a miserable situation at U.S. gateways, involving bottlenecks and extreme delays for visitors. This is not the welcome we, as a nation, care to extend when the international traveler enters this country nor does this reputation aid U.S. travel promotion efforts.

Continued. . .

We ask your committee to recognize the economic importance of travel to and within America and to authorize adequate appropriations to promote and to facilitate America's third largest industry.

Sincerely,

William D. Toohey
President

WDT:kgc

Attachment

Mr. Chairman, my name is William D. Toohey, and I am President of Discover America Travel Organizations, a Washington-based nonprofit membership association representing the common interests and concerns of the United States travel industry.

I am accompanied today by senior travel industry executives representing major component organizations of the travel and tourism industry. These executives endorse the general statement I am about to present and several will wish to comment briefly in amplification of these remarks. Others have prepared statements that they may wish to have entered into the record of these hearings. All are prepared to answer questions that you or members of your Subcommittee may wish to ask.

Mr. Chairman, with your permission, I would ask these senior executives to introduce themselves and indicate the industry component they represent. (The executives will introduce themselves.)

AIR TRANSPORT ASSOCIATION
Norman J. Philion - Executive Vice President

AMERICAN AUTOMOBILE ASSOCIATION
John de Lorenzi
Managing Director, International and Corporate Policy

AMERICAN RECREATION COALITION
David J. Humphreys - Chairman

AMERICAN SKI FEDERATION
Joseph Prendergast - President

HOTEL SALES MANAGEMENT ASSOCIATION
Robert McGrail - Chairman, Government Affairs
Vice President/Marketing, Quality Inns International

INTERNATIONAL ASSOCIATION OF CONVENTION AND VISITORS BUREAUS
Robert J. Sullivan - Past President
General Manager, San Francisco Convention & Visitors Bureau

NATIONAL CAVES ASSOCIATION
Thomas H. Gibson - Chairman, Legislative Committee
Executive Vice President, Skyline Caverns

NATIONAL COUNCIL OF STATE GOVERNMENT TRAVEL OFFICES
Hank Lindsey - Comissioner, Kentucky Department of Tourism

NATIONAL COUNCIL OF TRAVEL ATTRACTIONS
George F. Wright - Chairman
Director of Travel, Colonial Williamsburg Foundation

NATIONAL COUNCIL OF URBAN TOURISM ORGANIZATIONS
Charles Gillet - Chairman
President, New York Convention and Visitors Bureau

NATIONAL TOUR BROKERS ASSOCIATION
W. James Host - Executive Vice President

UNITED STATES TOUR OPERATORS ASSOCIATION
Robert Whitley - Executive Vice President

In addition, Mr. Chairman, officials of the following industry associations who could not be present today have notified me of their endorsement of this testimony:

AMERICAN BUS ASSOCIATION

AMERICAN HOTEL AND MOTEL ASSOCIATION

AMERICAN SIGHTSEEING INTERNATIONAL

AMERICAN SOCIETY OF TRAVEL AGENTS

CONFERENCE OF NATIONAL PARK CONCESSIONERS

FLORIDA CARIBBEAN CRUISE ASSOCIATION

GRAY LINE SIGHT-SEEING ASSOCIATION

INTERNATIONAL ASSOCIATION OF AMUSEMENT PARKS AND ATTRACTIONS

NATIONAL AIR CARRIER ASSOCIATION

NATIONAL COUNCIL OF AREA AND REGIONAL TRAVEL ORGANIZATIONS

NATIONAL INNKEEPING ASSOCIATION

NATIONAL RESTAURANT ASSOCIATION

We would like to say at the outset that the travel industry on this occasion, as it has many times in the past, expresses its deep appreciation to you for your understanding of the industry and its contribution to this country, and for your continued efforts on its behalf. You have our gratitude.

Unfortunately, Mr. Chairman, as you well know, an understanding of this industry and its importance to America does not pervade this government. Therefore, it is necessary that we appear before you today in support of S.2248 that your Subcommittee introduced in response to the Administration's proposal to restructure the United States Travel Service (USTS), which in our collective judgment would substantially diminish the international travel promotion activities of the Federal government.

The Administration is proposing the elimination of the USTS as a separate agency within the Department of Commerce now headed by an Assistant Secretary and the transfer of certain of its functions to the International Trade Administration. This proposal ignores the action taken last year by unanimous vote of the Senate approving the National Tourism Policy Act (S.1097).

This legislation culminated years of intensive study, led by the Senate Commerce, Science and Transportation Committee, to determine how the Federal role in tourism could be improved and made more responsive to the national interest. The study was thorough and sought industry views on the broadest possible basis. S.1097 is now under consideration in the House where we all await

timely action by that body.

In the meantime, the Office of Management and Budget (OMB) has made its second attempt to diminish the effectiveness of the USTS and this is the second time legislation has been presented to counter such action.

Last year, S.233 as passed by Congress, continued funding of the travel service for one year at a reduced level of $8-million, pending resolution of the broader issues embodied in the National Tourism Policy Act.

The International Travel Act of 1961, enacted into law almost twenty years ago, clearly established the USTS as an agency of government to promote tourism from other countries to the United States.

But let there be no mistake about the views of the Administration regarding this issue. Following Congressional enactment of S.233 last year, the President stated in signing the bill:

> "At the beginning of the year I recommended that the Service be eliminated, for its function can and should be performed by the private sector. I have not changed my view.
>
> "I have signed S.233, however, because the appropriations for the travel service have already been enacted as part of a separate bill."

Recently the Department of Commerce, apparently following directions from the OMB, has publicly stated that its proposed dismantling of the USTS and restructuring of its activities is designed to strengthen its effectiveness -- effectiveness to do what?

Worthy of special comment is the proposal to reduce the number of personnel in USTS regional marketing offices from 45 to 25, and the claim that this would be more than offset by assigning tourism marketing responsibilities to 162 commercial attaches in 65 countries. Any professional travel marketer would wince at the naivete of this assumption. What the OMB clearly looks forward to is the day when the number of professional marketing personnel in USTS regional posts is reduced to zero.

To illustrate further, the proposed budget eliminated the International Congress Office -- established to encourage and facilitate the scheduling of international conventions and congresses in the United States.

Frankly, Mr. Chairman, our patience in this matter is wearing thin. We strongly disagree with the Administration's position and rationale and extend our support of S.2248.

We do not believe it is necessary to re-state here in detail what we perceive the proper role to be for the Federal government in the field of tourism. As an industry, and as individuals representing its major components, we have participated in the exhaustive National Tourism Policy Study and have addressed this issue for the past six years. Our views are amply on the record. We support S.1097 and look forward to its early passage in the House.

Further, we see no purpose to be served by a further study to seek industry views on whether a federally chartered corporation

is the most effective way for the Federal government to carry out a national tourism policy and, among other things, to substantially increase its foreign exchange earnings from internaticnal tourism. The travel industry is clearly on the record in support of this concept, and we reiterate that support again today.

We see this corporation as a federally funded entity, designed to carry out the federal program. We see it operating most effectively with management assistance from industry professionals who serve the government on its Board of Directors at the pleasure of the President.

The pending legislation, S.1097, clearly reflects the national interest in strengthening the domestic and foreign commerce of the United States. Encouraging foreign residents to visit this country is an important way to achieve that goal. The expenditures of foreign visitors impact significantly on the national economy, creating jobs and generating tax receipts.

In 1979, international tourism receipts for the United States were $10 billion, which sustained at least 300,000 jobs in travel-related enterprises, which are largely small businesses. These receipts also generated $1.2 billion in Federal, state and local taxes. Travel promotion is not an "end in itself" expenditure, but a prudent investment.

The USTS as a separate agency of Commerce, and its system of foreign field offices, should neither be dismantled nor weakened before pending legislation is enacted recognizing an effective and responsive Federal commitment to tourism. S.2248 provides the necessary maintenance of existing programs and adequate time for

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an orderly transition to a new Federal tourism policy and the coordinating and implementing mechanisms to carry out that policy.

Mr. Chairman, that concludes my statement on behalf of the travel industry, and with your permission, I would like to call on members of our industry panel for brief comments they wish to make. We also will be pleased to answer any questions you may wish to ask.

Thank you.

National Technical Information Service

[The following statement from Lanny J. Davis, Patton, Boggs, and Blow on behalf of the Smithsonian Science Information Exchange Employees, was submitted to the Committee concerning the fiscal year 1981 budget request for the National Technical Information Service:]

STATEMENT
ON BEHALF OF
SMITHSONIAN SCIENCE INFORMATION EXCHANGE EMPLOYEES
TO THE
SUBCOMMITTEE ON STATE, JUSTICE, COMMERCE
AND JUDICIARY APPROPRIATIONS

HOUSE COMMITTEE ON APPROPRIATIONS

April 15, 1980

Submitted by

Lanny J. Davis, Patton, Boggs & Blow

Mr. Chairman and Members of the Subcommittee. The employees of the Smithsonian Science Information Exchange, Inc. (SSIE) submit for the hearing record their position on the proposed Fiscal Year 1981 appropriation of $2.3 million to accomplish a merger of the SSIE with the National Technical Information Service (NTIS) of the U.S. Department of Commerce.

Without regard to the merits of the proposed SSIE-NTIS merger, employees of the SSIE are concerned that they may lose substantial, hard-earned employment rights if the merger occurs without administrative and legislative actions taken to protect those rights. Therefore, these employees respectfully request this Subcommittee to delay for one year the appropriations for the merger to afford sufficient time to enact legislation to protect SSIE employee rights, to complete yet unfinished integration and technical studies, and to ascertain the ultimate costs of the merger. A simple, one-year delay not only could save federal dollars during this budget-cutting period, but could also save the benefits SSIE employees have earned during many years of loyal service to the Federal Government.

I. Background

The SSIE has been in existence since 1949. Created by Federal agencies for Federal purposes, it collects and exchanges information about on-going and recently completed research. The SSIE and its employees have always retained Federal characteristics. From 90 to 100 percent of its services are perfomed for the Federal Government, with 90 percent of its budget originating from Federal appropriations or Federal contracts. Although the employees have commercial benefit plans for health and retirement and paid social security taxes, SSIE compensation plans are patterned after the General Schedule of the Civil Service system. SSIE personnel have always earned salaries and accrued sick and annual leave at the same grade and step level as Federal Government employees.

When the initial directive for federalization of the SSIE came from the House and Senate Appropriations Committees, concern was expressed that the conversion be smooth. As the Senate Committee explained in its Report, S. Rep. No. 276, 95th Cong., 1st Sess. 54 (1977):

> The Committee agrees that there is no reason why the [SSIE], which relies on federal funds for about 90 percent of its support, should not be returned to federal status. In order to avoid problems that might stem from precipitous changes, the Committee is withholding any recommended modifications in the [SSIE]. It expects, however, that efforts will begin immediately to effect the smooth transition of the [SSIE] to federal status, either in the Smithsonian or another appropriate federal agency.

In 1978 and 1979, the Appropriations Committee repeated their call for federalization of the SSIE. As the House Appropriations Committee Report, H. Rep. No. 247, 96th Cong., 1st Sess. 33 (1979), recommended:

> . . .that the Department [of Commerce] submit a legislative proposal that would transfer SSIE employees to federal status . . . the Committee expects a progress report on the Department's efforts to implement these recommendations when the Fiscal Year 1981 Budget is submitted to the Congress.

The Congressional statements on the federalization of the SSIE demonstrate a clear Congressional intent that the "smooth transition" of the SSIE to Federal status was to be by legislative proposal which would not disrupt accrued seniority rights and benefits of SSIE personnel. Failure to protect these employee rights and benefits would be contrary to sound public policy, basic fairness, and legislative precedent.

To date, very little has been done by the Department of Commerce and the Office of Management and Budget to make provisions for the following SSIE employee rights: maintenance of current grade and step salary levels; maintenance of seniority rights; preservation of accumulated sick and annual leave; preservation of earned retirement benefits; comparable health care benefits and coverage; and severance pay if comparable jobs with comparable benefits are not available.

On the basis of information given by the Department of Commerce addressing SSIE employee conversion issues, the

following points demonstrate the deprivation of rights which SSIE personnel face:

1. Appointments: Permanent SSIE employees would be transferred to NTIS as career-conditional appointees (with probationary status for one year and full career status only after three years of service). Temporary SSIE employees would be offered positions at NTIS only for time limited appointments.

2. Salaries: Most SSIE employees would suffer reductions in pay because, as career conditional appointees, they would be considered new federal appointees, who must enter at the first step of their salary grade. Thus, SSIE employees with 15 or 20 years of service could experience as much as a 23 percent cut in pay. An employee making $14,618 in grade five step ten, would earn only $11,243 at the entry level of grade five step one. */

3. Leave Policy: Although SSIE and NTIS annual and sick leave policy are identical, SSIE employees face forfeiture of all their accrued sick leave and the accrual rate of annual leave. Thus, an SSIE employee with as much as 1,700 hours of sick leave would lose every single day of that sick leave by entering NTIS service. Moreover, because of the loss of step in grade, an employee who had accrued 8 hours of annual leave per pay period at the SSIE would only accrue 4 hours of annual leave per pay period at NTIS.

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*/ There are two exceptions to the new appointee rule; however, they are not applicable to most SSIE employees. The first exception would allow any SSIE appointee who had previous federal service at a higher rate than step one of the grade could enter NTIS service in the same step of grade he or she had earned at the SSIE. The second exception would allow those SSIE employees at the GS-11 or above who had unique and superior qualifications to enter NTIS service at the same pay level. Both exceptions, however, would be subject to approval by NTIS management who stated at a March 4, 1980 meeting with SSIE personnel that it is unlikely such exceptions would ever be considered. Moreover, the "unique and superior" exception would also require approval by the Office of Personnel Management.

4. Insurance: Although SSIE employees would be eligible to select a variety of health insurance plans if employed at NTIS, most of those high option medical insurance plans would be two-to-three and one-half times more expensive for an employee who had previously been covered by the SSIE health insurance plan. Life insurance policies would also be available at NTIS but would be three and one-half times more expensive with less coverage available.

5. Retirement Plans: Available Federal service retirement plans would also be over three times as expensive as the SSIE plan, yet afford only half of the benefits. Moreover, since the retirement benefits would be calculated as a percentage of the average high 3-year salary, an SSIE employee who secured an NTIS position at the entry level would lose not only higher salary steps but also the higher salary experience on which the retirement benefits are based.

Lack of sufficient planning has also been evident by the Department of Commerce and the Office of Management and Budget underestimations of the amounts which would be necessary to cover SSIE severance payments. Originally, the Department of Commerce estimated SSIE close-out costs to be approximately $505,000. This amount provided only $300,000 in severance costs on the theory that only half of the SSIE employees would be transferred to NTIS. The estimate also included $150,000 for accrued annual leave, $50,000 for expenses incurred by the Smithsonian Institution during the merger, and $5,000 for a final close-out audit. As a further complication, OMB cut the total close-out cost request to $405,000.

These early estimates are unrealistic. According to the Smithsonian Institution, costs for severance payments alone could exceed $549,000 by October 1, 1980. Accrued annual leave liability for all SSIE employees could total as much as $276,672 which, if not covered by regular operating funds, could require $168,000 to be set aside as part of the terminal close-out costs.

It must be emphasized that proper determination of the merger costs cannot be made until completion of the formal integration study for which the Congress appropriated $200,000 last year but which was commenced only recently this year. Furthermore, an A-76 study of the potential for contracting out data collection work is still only in the planning stages. Although these various studies are supposed to be completed by the end of June, 1980, it is very likely that they will be delayed. Since many of the final aspects of the SSIE-NTIS merger depend on the results of those studies, it is difficult to envisage how all preparations and cost estimates for the merger can be accomplished by the deadline of October 1, 1980.

II. Need For Remedial Legislation

According to the Department of Commerce, current civil service laws and regulations would not permit SSIE employees to retain their accrued benefits upon transfer to the NTIS. Consequently, in order to accomplish their federalization in a

"smooth transition" to NTIS employment, special remedial legislation would be required. There are a number of precedents for remedial legislation in consolidation situations. For example, the accrued employment benefits of technicians were preserved by special legislation when they converged with the National Guard. Pub. L. 90-486, 32 U.S.C. § 709. Similarly, museum employees' rights were protected when the Museum of African Art was absorbed by the Smithsonian Institution. Pub. L. No. 95-414, 20 U.S.C. § 800. Labor protection provisions also have been included in legislation dealing with consolidations in the railroad, freight forwarders and telegraph industries. See 45 U.S.C. § 565; 49 U.S.C. § 11347; 49 U.S.C. § 10926(3); and 47 U.S.C. § 222(f). In each of these cases, the Congress has recognized the obligations owed to employees in the private sector whose services have a substantial impact on the public. If sound public policy considerations required that these private employees be left in no worse position than they would have occupied had a consolidation not occured, surely the same policy should apply in the instance of SSIE employees who have performed nearly all of their work for the Federal Government.

Not only is remedial legislation to protect SSIE employees' earned benefits warranted, but there is also every indication that such legislation would receive favorable action by the appropriate legislative committees. SSIE employees have already discussed the

possibility of remedial legislation with the Subcommittee on Compensation and Employee Benefits of the House Committee on Post Office and Civil Service and the Senate Committee on Governmental Affairs. Special hearings are planned for the month of July on the issue of the preservation of accrued employment rights of non-appropriated fund personnel (PX employees) who are scheduled to be federalized as part of the Department of Defense. Since the protection of SSIE employees benefits is nearly identical, consideration of remedial legislation for each group could be handled simultaneously.

Despite these Committees' favorable disposition, however, it seems highly unlikely that the necessary legislation could be reported from the appropriate committees and considered by the House and Senate before October 1, 1980, the scheduled date of the merger. Therefore, the SSIE employees respectfully request this Subcommittee to delay for one year the appropriations to accomplish the SSIE-NTIS merger.

III. Delay of Merger Necessary

The SSIE employees recognize and share the frustrations of this Committee with the minimal efforts made to effect a smooth SSIE-NTIS merger. Indeed, these employees have been worried about their positions and employment rights for over two years already. Nevertheless, concern to expedite the integration is no justification for disregarding their legitimate request for remedial legislation to protect their earned employment benefits. A one year delay in the merger will afford sufficient time for

enactment of the necessary legislation. The delay will also provide the Department of Commerce ample opportunity to complete its integration study and analyze the results of the A-76 studies. With this data in hand, the Department will be better able to develop and implement the merger plans.

Finally, from a budgetary standpoint, to delay the merger for one year would have a positive impact on the Fiscal Year 1981 Budget, and to honor current SSIE personnel wage and leave rights would probably have a neutral impact on the budget for Fiscal Year 1982. First, the delay would permit the Appropriations Committees to reduce the $2.3 million request for the merger in Fiscal Year 1981. Second, to preserve SSIE salary, sick leave, and rate of annual leave rights, the costs would be substantially offset by a concomitant reduction in the cost of severance payment obligations to SSIE in Fiscal Year 1982.

In conclusion, the SSIE employees respectfully request a one-year delay of the merger as the most equitable and reasonable course for the Congress to pursue.

National Oceanic and Atmospheric Administration

[The following statement from Honorable James L. Oberstar, Member of Congress, was submitted to the Committee concerning the fiscal year 1981 budget request for the National Oceanic and Atmospheric Administration:]

STATEMENT OF THE HONORABLE JAMES L. OBERSTAR

SUBCOMMITTEE ON STATE, JUSTICE, COMMERCE, JUDICIARY

APPROPRIATIONS COMMITTEE

WEDNESDAY, APRIL 16, 1980

Mr. Chairman, Members of the Subcommittee, I appreciate this opportunity to express my strong support for appropriating all funds authorized for the projects of the National Sea Grant Program. The National Sea Grant Program is a cost-effective program. The funds we have appropriated in past years have promoted research and preservation of ocean resources through the development of a strong base of expertise in universities. It has tapped the talents of our nation's academics to study problems of developing and regulating the marine environment. In addition, it has served local, regional, and national needs through its educational, advisory, and research programs. Its successful funding methods in form of matching grants testify to the great value of and support for this program throughout the country.

I have become a supporter of the Sea Grant Program because I have had the opportunity through my past service on the Oceanography Subcommittee to see the enormous contributions that this program has made to our understanding and wise use of the nation's marine sources.

I've also followed the development of a first-rate Sea Grant Program in my own District....that of the Sea Grant Extension Program at the University of Minnesota, Duluth.

The University of Minnesota Sea Grant Program has requested funds for a variety of programs including those which deal with research into Lake Superior fisheries, aquaculture, and coastal and lake processes. Additional funds are requested to study the recreational use of Lake Superior and to develop water safety projects.

What makes this program cost-effective and so valuable is its practical application of its research. The Sea Grant Program works with the public to insure greater water safety and resource development. Recreational use of marine resources is improved through management programs and the fisheries development research.

The University of Minnesota Sea Grant Program has pioneered research into cryopreservation, the freezing and preservation of freshwater fish gamates. In additon, researchers have done extensive work in the area of hypothermia. In the present budget proposal, the University of Minnesota requests research funding for its University of Minnesota-Duluth Extension Program's research into hypothermia and the effects of alcohol on the cardiovascular system.

Finally, I want to urge strong support for the Sea Grant Extension Program at Duluth and for the Marine Education and Training programs of the Sea Grant Program. Through the use of these monies at the University of Minnesota, as well as at the other colleges and universities, traineeships will be provided, undergraduate education in marine studies for American Indians will be funded, and field agents will be funded to work with the public in areas of recreation, fisheries, coastal engineering, and marine education. These programs provide valuable services to the people of Minnesota and of all states and contribute greatly to the development and management of our valuable marine resources. Through the National Sea Grant Program we guard against marine mismanagement in the future and enhance our present programs and research through these training programs.

I would like to submit a copy of the University of Minnesota's budget proposal for fiscal year 80-81 for the record.

Thank you.

National Oceanic and Atmospheric Administration

[The following letter from the Honorable Edward J. Stack and 15 other Members of Congress was submitted to the Committee concerning the fiscal year 1981 budget request for the National Oceanic and Atmospheric Administration:]

EDWARD J. STACK
12TH DISTRICT, FLORIDA
BROWARD COUNTY

WASHINGTON OFFICE:
1440 LONGWORTH HOUSE OFFICE BUILDING
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AC 202-225-3026

DISTRICT OFFICE:
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Congress of the United States
House of Representatives
Washington, D.C. 20515

COMMITTEE ON EDUCATION AND LABOR
SUBCOMMITTEES:
HUMAN RESOURCES
SELECT EDUCATION
COMMITTEE ON MERCHANT MARINE AND FISHERIES
SUBCOMMITTEES:
COAST GUARD AND NAVIGATION
FISHERIES, WILDLIFE CONSERVATION AND THE ENVIRONMENT
OCEANOGRAPHY
SELECT COMMITTEE ON AGING
SUBCOMMITTEE ON HEALTH AND LONG TERM CARE

April 18, 1980

Honorable Neal Smith
Chairman, Subcommittee on State,
Justice, Commerce, Judiciary
H 310 Capitol
Washington, D.C. 20515

Dear Mr. Chairman:

On April 1, 1980, the House Appropriations Subcommittee on State, Commerce and the Judiciary received testimony on NOAA's FY 1981 budget. Among the subjects discussed was the Administration's $2.25 million request for the marine sanctuaries program.

The marine sanctuary program, Title III of the Marine Protection, Research and Sanctuaries Act of 1972, reflects the Congressional understanding that there are places of special and irreplaceable biologic and ecologic value in the ocean waters. Tropical coral reef ecosystems, such as that protected by the Key Largo Coral Reef Marine Sanctuary, are a prime example of such areas.

These special sites can benefit greatly from the integrated management program of research, monitoring, education, long-term planning, coordination, and regulation that the marine sanctuary program provides. Many of them are, and will continue to be, subject to a wide variety of pressures and impacts as our Nation's uses of marine resources expand. As necessary development of marine resources continues, it is important that we give special attention to preservation of the distinctive areas in the sea which Title III is designed to protect.

At the April 1, 1980 hearing, the Honorable John Murphy, Chairman of the House Merchant Marine and Fisheries Committee, testified in support of the Administration's $2.25 million budget request for Title III. Representative Murphy stated that an appropriation of this amount will make it possible to designate and manage marine sanctuaries in those distinctive offshore areas where the high value of the ecosystem requires special attention.

Chairman Murphy's full Committee approved legislation authorizing the full $2.25 million FY 1981 appropriation when it passed H.R. 6616 last month. We continue to support the full funding of the amount authorized.

Yet, there are those who believe that the marine sanctuary program is unnecessary and only duplicates the work of other existing Federal programs. The Honorable John Breaux, Chairman of the Fish and Wildlife Subcommittee of the Merchant Marine and Fisheries Committee, testified at the April 1 appropriations subcommittee hearing that the program was unnecessary and should not receive funding in the coming year of fiscal austerity.

We submit that this conclusion is incorrect.

The marine sanctuaries program is not duplicated by other environmental programs and statutes. It alone provides a Federal mechanism which identifies particular geographically-defined marine areas and provides a long-term program to preserve these valuable areas for future generations. The site-specific element of the program, its ability to provide comprehensive management including research, monitoring and education in a geographically defined area, and its protection focus distinguish it from all other existing programs, and highlight its importance as a unique marine environmental program.

Title III can also serve as a useful tool for complementing state marine resource protection efforts by protecting valuable marine resources in and beyond the limits of state jurisdiction. The program has built close working relationships with a number of states, providing opportunities for coordinated regulations, shared enforcement responsibility, and jointly funded and managed research and education activities.

The funds which are appropriated for marine sanctuaries are spent predominantly on management activities. Ongoing research, assessment, monitoring and public education are essential if the designation of a sanctuary is not to become a hollow gesture. These programs at the existing Key Largo Coral Reef Marine Sanctuary require continuing support in FY 1981. The four new sanctuaries which NOAA anticipates designating in this fiscal year must be funded in the next fiscal year. Among the possible new designations is Looe Key Reef, a threatened site in the Florida reef track, which would be an irreplaceable loss because of its unique coral formation.

The objectives of the marine sanctuary program are sound. It is important that the program continue to develop. We urge support of the modest $2.25 million appropriation level for Title III proposed by the Administration.

Edward J. Stack
EDWARD J. STACK, M.C.

Earl Hutto
EARL HUTTO, M.C.

Brian Donnelly
BRIAN DONNELLY, M.C.

Mike Lowry
MIKE LOWRY, M.C.

David F. Emery
DAVID EMERY, M.C.

Dante Fascell
DANTE FASCELL, M.C.

Claude Pepper
CLAUDE PEPPER, M.C.

David E. Bonior
DAVID BONIOR, M.C.

PAUL MC CLOSKEY, M.C.

GERRY STUDDS, M.C.

WALTER JONES, M.C.

LES AU COIN, M.C.

WILLIAM LEHMAN, M.C.

DANIEL AKAKA, M.C.

JAMES OBERSTAR, M.C.

WILLIAM HUGHES, M.C.

STATEMENT OF GUSTAVE FRITSCHIE

DIRECTOR OF GOVERNMENT RELATIONS

NATIONAL FISHERIES INSTITUTE

Before the

HOUSE APPROPRIATIONS SUBCOMMITTEE

ON STATE JUSTICE COMMERCE AND THE JUDICIARY

April 15, 1980

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Mr. Chairman, I am Gustave Fritschie, Director of Government Relations for the National Fisheries Institute. The Institute represents more than 950 member companies and affiliated trade associations which harvest, process and distribute fish, seafood and marine products. NFI appreciates the opportunity to appear today to present comments concerning the budget of the National Oceanic and Atmospheric Administration for Fiscal Year 1981.

The nation's seafood industry is entering the 1980s with mounting problems and no easy solution in sight. Significantly increased energy costs and other costs of harvesting and processing made it more difficult to produce products at a price which is acceptable to the American public. In the shrimp industry for example, consumption by tonnage in the peeled shrimp and breaded shrimp categories are down 20% and 25.6% respectively when one evaluates the period 1978 to 1979. Given drastic increases in the price of shrimp since the spring of 1979, new statistics should show an even greater decrease in consumption. Available statistics also show a marked increase in shrimp inventories. The same trend is also apparent in other relatively high priced traditional species such as salmon and king crab. What does this mean to the harvester? Clearly, it is unlikely that high prices paid to the harvester in previous years will be duplicated during the coming season, yet a possible price reduction will come at a time when energy costs are at an all time high and it is projected that diesel fuel may reach $1.50 to $1.75 before the end of calendar year 1980. A similar cost-price squeeze exists with underutilized species when one recognizes the current world wide economic decline which has depressed the world market in seafood products coupled with existing trade barriers in foreign nations which discourages the development of markets for species under-utilized by the United States industry within the Fishery Conservation Zone.

Other impediments to the development of U. S. fisheries in the 1980s include a lack of technology, government regulatory impacts such as existing and proposed regulations by the Food and Drug Administration and the Environmental Protection Agency, consumer unawareness of the various types of fishery products on the market, and the lack of increased productivity in the harvesting and shoreside sectors of the industry. The industry is striving to meet these challenges and focus on remedies to the problems; yet more can be done with the proper restructuring of the present dollars available to the National Marine Fisheries Service and the proper use of Saltonstall-Kennedy funds.

I would now like to briefly address the Administration's proposal to fund base NMFS development related activities out of S-K receipts, as well as limit the amount of funding available to the industry and NMFS for fishery development projects. First, the Institute is emphatically opposed to the funding of any portion of the NMFS's base program with the use of S-K receipts. NFI has consistently objected to the funding of any activities that NMFS undertakes with these dedicated funds. The Administration this year has announced that it will fund these activities with appropriated funds, but insists on funding development related activities from S-K receipts. The Congress has made it clear in the past that these receipts are special funds and made available to the government and the industry for development activities and that they are to be in excess of funds made available for such activities through the appropriations process. We therefore recommend that the line item entitled Ocean Fisheries and Living Marine Resources be increased by the amount of 10 million dollars to cover the items entitled Fishery Development Research and Services and Quality Safety and Consumer Services. This represents a proposed increase of 2 million dollars.

The increase, as the Institute intends, to be used by the Service to fund research projects through the technological laboratories which will assist the industry to increase productivity and to meet the challenges created by ever increasing energy costs and other increased costs of operation. The failure of the industry and the government to respond to this challenge will necessarily result in ever increasing costs for food which will further aggravate the present inflationary climate. An illustrative use of part of this funding would be to increase the ability of existing laboratories to assist in ensuring the consumer of high quality fishery products, as well as provide the consumer with information regarding the nutritional benefits derived from seafood. The availability of this information to the consumer will enable the consumer to consider other factors in addition to price when selecting food items either in the retail store or in the restaurant. Another program which would benefit from additional NMFS funding would be research oriented toward improving the energy efficiency within the fleet and shoreside operations. This again is related to increased productivity and the need to more efficiently harvest, process and market the fish made available to the American consumer.

Second, the Institute is opposed to the present limit on the amount of S-K funds which will be made available through fishery development projects. As this Committee is aware, the industry recognizes the role it can play to develop underutilized species, to expand markets and improve harvesting and production techniques for utilized fisheries. The vehicle being utilized for this effort is the establishment of national and regional fishery development foundations. Since the publication some months ago by the Service of a grant eligibility notice in the Federal Register NMFS has received grant proposals totaling more than 100 million dollars for the 10 million dollars which the Service has available at the present time.

The authorizing committees of the Congress have recognized the important role that can be played by the foundations and the Service with the utilization of S-K funds. Development legislation passed by the Senate restates the intent of the Congress in originally enacting the S-K legislation and provides that not less than 50% of the funds available under that Act will be made available to the industry for development projects. As this Committee is aware, projections indicate that more than 37 million dollars in receipts will accrue this coming fiscal year under the S-K legislation, thus leaving approximately 27 million dollars in additional funding potentially available for use by the industry. These funds can be made available through the Office of Management and Budget and the Department of Commerce without additional legislation and NFI urges this Committee to strongly indicate in the Committee Report that these funds be added to the present 10 million dollars that is available. Many of these projects are geared toward meeting the challenges listed earlier in my testimony. They include research, such as the use of new advanced packaging for fresh fish, and energy efficiency.

In summary, there is a need to shift the emphasis of the NMFS budget away from the conservation, management and additional study of fishery stocks and toward the orderly development of the resources found within the fishery conservation zone. Increasing by at least 2 million dollars the appropriation for fishery development quality and safety related functions of NMFS and the availability of additional S-K funds for industry and NMFS sponsored development research projects will place in motion this change in program emphasis.

At this time I would like to expess another area of program emphasis which needs to be altered and that is the overwhelming segment of the NMFS budget related to fishery matters seaward of the territorial sea. Congress in 1964 more than a decade prior to the enactment of the Fisheries Conservation and Management Act enacted the Commercial Fisheries Research & Development Act to provide assistance to the states to engage in fisheries research management and development activities. The authorization for this program in the period 1966 through 1977 was 5 million dollars and the appropriations were futher reduced to 3.8 million dollars in the period 1970 through 1978 before an increase to 5 million dollars last year. While funding has remained static, the impact of inflation and the increased responsbilities placed on the states, due in part to the enactment of the FCMA, and in part to the realization that much of this nation's commercial fish harvest is still taken within the territorial sea has precluded the states from providing the type of assistance to manage and develop commercial fisheries within state waters. Recently the National Fish Meal & Oil Association, a division of the National Fisheries Institute submitted a statement to Chairman John Breaux of the House Fisheries Subcommittee supporting an increase in the authorization for Section 4(a) of the Act to 12 million dollars for Fiscal Year 1982 and 15 million dollars for Fiscal Year 1983. The Institute believes that adequate appropriations under this Act will be a worthwhile investment by the Congress in the development of this nation's commercial fisheries and supports an appropriation of 10 million dollars under this legislation for FY 1981.

The Institute believes that many of the challenges confronting the industry in the area of energy and technological improvements can be met by adequate funding for the National Sea Grant Program. Increased funding for applied research and development programs to support the American fishing industry and the use of marine advisory service to transmit that information to the docks and to companies directly involved in the industry will be of direct benefit to the harvesting and processing segments of the industry. We would therefore support an increase of approximately 3.5 million dollars to expand Sea Grant's efforts to these areas and recognize the need for additional funding to meet real cost increases in order to meet the impact of inflation. We understand that the Sea Grant Association is recommending an increase of 1.4 million dollars to cover these increased inflationary costs. The Institute therefore lends its support for increases in the above-mentioned areas of this program.

Finally, NFI is strongly opposed to the proposal decrease of four positions in the area of international fisheries management. The reports currently provided by this program are widely used by the industry and are not duplicated by activities in other Federal agencies.

That concludes the Institute's prepared statement, Mr. Chairman. I am prepared to answer any questions that you or other members of the Committee may have.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

[The following letter from Clifton E. Curtis and Daniel Wake on behalf of the Marine Sanctuaries Coalition was submitted to the Committee concerning the fiscal year 1981 budget request for the National Oceanic and Atmospheric Administration:]

CENTER FOR LAW AND SOCIAL POLICY

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11 April 1980

Honorable Neal Smith
Acting Chairman
Subcommittee on State, Justice,
Commerce and Judiciary
House Committee on Appropriations
U.S. Capitol
Washington, D.C.

Dear Mr. Smith:

The Marine Sanctuaries Coalition, which is comprised of 18 national environmental organizations, would like to express its views for the record in support of an appropriation of $2.25 million for Title III of the Marine Protection, Research and Sanctuaries Act of 1972.

The Marine Sanctuaries Program, both with respect to particular activities and in comprehensive terms, provides responsible and unique protection of certain ocean areas which have especially valuable and distinctive resources. The Merchant Marine and Fisheries Committee's recent actions reaffirmed the importance of Title III when it authorized $2.25 million for the program for FY 1981 as part of their consideration of H.R. 6616. Several members of that Committee submitted a statement for the hearing record on H.R. 6616 which exemplify the strong Congressional support for the program. Chairman John M. Murphy underscored its importance again by requesting this Subcommittee to appropriate the full $2.25 million for the program, noting the need to "designate marine sanctuaries in those distinctive offshore areas where the high value of the ecosystem requires special protective arrangements."

The Marine Sanctuaries Coalition has had a long-standing interest in Title III. The Coalition participated in the formulation of NOAA's revised regulations for the program, has submitted comments on several of the sanctuary proposals, and most recently testified on February 20, 1980, at the reauthorization hearings before the Subcommittee on Oceanography and

Fisheries and Wildlife Conservation and the Environment concerning H.R. 6616. (For your information, attached is a copy of our February 20th testimony.) The Coalition has repeatedly stressed the unique protections provided by Title III. The Act, for example, is the only environmental law providing comprehensive, site-specific regulation of valuable and distinctive marine resources that merit protection and preservation. It is the only law that gives appropriate attention to fragile marine habitats. Title III is unmatched in its jurisdictional scope, its long-term protection, its consideration of esthetics, and its protection of coral and historic sites.

According to a recently completed Congressional Research Service study made at the request of Representative Breaux, the program "permits a holistic approach to management of defined marine areas that is not readily attainable through resort to statutes focusing on specific environmental impacts." Regrettably, although Representatives Breaux and Forsythe tracked the CRS study when they listed in their joint statement before this Subcommittee on April 1, 1980, the various statutes that give some protection to the oceans and the various activities regulated, they failed to go further and summarize the findings of the CRS study. The study found that the Marine Sanctuaries Program gave a "positive approach to protection of marine areas of recognized importance" because it filled existing gaps in the coverage of (1) wildlife, (2) unique marine ecosystems, (3) impacts of oil and gas exploration, (4) hazardous substances, (5) antiquities, (6) vessel traffic, (7) salvage operations, (8) commercial and recreational fishing, (9) littering and (10) anchoring. Representatives Breaux's and Forsythe's April lst statement also stressed the need for agency efficiency and balancing the federal budget. In this regard we would also refer you to the CRS study, which concluded that the blanket coverage of Title III can be "quicker and less costly . . . than piecemeal protective actions" through the various other statutes.

Consistent with the views of the Coalition, the Administration has found the program to be valuable. Homer E. Moyer, Jr., General Counsel of the Department of Commerce, concluded in a 28 January 1980 letter to Chairman John M. Murphy that his research showed the program to be most important for its ability

to provide comprehensive management and long-term protection and for its jurisdictional scope and regulatory authority.

There are currently seven Active Candidates in NOAA's designation process that are being subjected, inter alia, to draft and final environmental impact analyses, regulatory considerations and comments from interested federal and state agencies and interested persons. The environmental organizations urge this Subcommittee to appropriate the full $2.25 million for the Marine Sanctuaries Program to allow NOAA to continue its important work on these seven Active Candidates and the other proposed sanctuary sites.

If we can be of further assistance to this Subcommittee or to the full Committee on Appropriations concerning appropriations for the Marine Sanctuaries Program, please do not hesitate to call on us.

Respectfully,

Clifton Curtis

Clifton E. Curtis
Daniel Wake*

On behalf of the Marine Sanctuaries Coalition:

American Littoral Society
Center for Environmental Education
Defenders of Wildlife
Environmental Defense Fund
Friends of the Earth
Fund for Animals
Greenpeace, U.S.A.
Humane Society of the U.S.
Marine Wilderness Society
Monitor International
National Parks and Conservation Association
Natural Resources Defense Council
Oceanic Society
Scenic Shoreline Preservation Conference
Sierra Club
Society for Animal Protective Legislation
Wilderness Society
World Wildlife Fund, U.S.

*law student intern

cc: Hon. Jamie Whitten
Hon. John M. Murphy
Members of the Subcommittee on State, Justice, Commerce and Judiciary

Economic Development Administration

[The following statement from R. Thomas Williamson, President of the National Association of Management and Technical Assistance Centers, was submitted to the Committee concerning the fiscal year 1981 budget request for the Economic Development Administration:]

STATEMENT BEFORE THE HOUSE SUBCOMMITTEE ON STATE, JUSTICE, COMMERCE AND THE JUDICIARY

MR. CHAIRMAN, HONORABLE COMMITTEE MEMBERS, MY NAME IS R. THOMAS WILLIAMSON. I AM THE DIRECTOR OF THE ECONOMIC DEVELOPMENT AND TECHNICAL ASSISTANCE CENTER AT THE STATE UNIVERSITY OF NEW YORK IN PLATTSBURGH, NEW YORK AND I PRESENTLY SERVE AS PRESIDENT OF THE NATIONAL ASSOCIATION OF MANAGEMENT AND TECHNICAL ASSISTANCE CENTERS. THE NAMTAC ORGANIZATION IS A NATIONWIDE NETWORK OF MANAGEMENT AND TECHNICAL ASSISTANCE CENTERS LOCATED AT UNIVERSITIES THROUGHOUT THE COUNTRY. THE CENTERS ARE STAFFED BY PEOPLE WITH REAL WORLD BUSINESS EXPERIENCE - ACCOUNTANTS, MARKETING PEOPLE, DATA PROCESSING PEOPLE AND ECONOMIC DEVELOPMENT/COMMUNITY DEVELOPMENT PEOPLE THAT UTILIZE THE RESOURCES OF THE UNIVERSITY BRINGING THEM TO BEAR ON FINANCIAL AND PRODUCTIVITY PROBLEMS OF THE BUSINESSMAN, THE TOWN OR CITY GOVERNMENT OR INDIVIDUALS SEEKING TO ENTER A BUSINESS.

MOST OF THE CENTERS INVOLVED ARE FUNDED BY THE ECONOMIC DEVELOPMENT ADMINISTRATION. FOR THE PAST THREE YEARS, CONGRESS, IN AN EXPRESSION OF LEGISLATIVE INTENT PERTINENT TO EDA LEGISLATION, HAS FUNDED THE UNIVERSITY CENTER MANAGEMENT AND TECHNICAL ASSISTANCE PROGRAM AT A LEVEL OF 3 MILLION DOLLARS. THAT INVESTMENT OF 3 MILLION DOLLARS PER ANNUM HAS PROVED TO BE VERY WISE INDEED. IN 1979, FOR EXAMPLE, IT TRIGGERED NEW CAPITAL INVESTMENT IN THIS COUNTRY OF $440,921,577 DOLLARS BY FIRMS THAT WERE ASSISTED BY MANAGEMENT AND TECHNICAL ASSISTANCE CENTERS IN PUTTING TOGETHER FINANCIAL PACKAGES FOR NEW VENTURES OR BUSINESS EXPANSIONS. IT HELPED TO BOLSTER SAGGING PRODUCTIVITY IN THIS COUNTRY BY TRANSFERRING NEW AND USABLE TECHNOLOGIES TO EXISTING BUSINESSES. IT INTRODUCED COUNTLESS STUDENT INTERNS AT THE VARIOUS CENTERS TO THE WORLD OF FREE ENTERPRISE AND ECONOMIC DEVELOPMENT. IT PROVIDED LICENSING AND PATENTING ADVICE TO ENTREPRENEURS

COMING TO THE MARKET PLACE WITH NEW INVENTIONS, THEN WHERE APPROPRIATE, ASSISTED WITH FINANCING FOR THE COMMERCIAL DEVELOPMENT OF THESE DEVICES. IT PROVIDED SUPPORTIVE PROFESSIONAL SERVICES TO ECONOMIC DEVELOPMENT DISTRICTS, COUNTY, CITY AND STATE DEVELOPMENT OFFICES AND VARIOUS FEDERAL AGENCY DEVELOPMENT PROGRAMS SUCH AS EDA, FmHA, SBA, DOE, AND OTHERS.

THE CENTERS HAVE DEVELOPED EXCELLENT WORKING RELATIONSHIPS WITH THE BANKS IN THEIR RESPECTIVE STATES. THE PROCESS OF DEVELOPMENT IS INTEGRATIVE IN NATURE. THAT IS TO SAY THAT IT MUST INVOLVE FEDERAL, STATE, AND LOCAL AGENCIES AND GOVERNMENTS WHERE APPROPRIATE, BUT IT MUST EMANATE FROM THE COMMUNITY AND FOCUS ON THE PRIVATE SECTOR. THE CENTERS SERVE AS A PLACE WHERE ALL OF THE ABOVE MENTIONED USERS CAN GO TO GET INFORMATION AND ASSISTANCE REGARDING BANK FINANCING CRITERIA AND FEDERAL AND STATE FINANCING PROGRAMS AS WELL AS MARKETING INFORMATION NEEDED TO ACCOMPLISH ANY DEVELOPMENT PROJECT.

JUST AS THE FARMER UTILIZES HIS UNIVERSITY BASED AGRICULTURAL EXTENSION SERVICE, SO THE COMMUNITY OR BUSINESS PERSON INTERESTED IN A DEVELOPMENT PROJECT HAS COME TO TRUST AND DEPEND ON MANAGEMENT AND TECHNICAL ASSISTANCE CENTERS FOR SOUND ADVICE, FEASIBILITY STUDIES, MARKETING STUDIES, APPLICATION OF NEW TECHNOLOGIES AND ECONOMIC IMPACT ANALYSIS.

3 MILLION DOLLARS FOR A NATIONAL NETWORK OF SUCH CENTERS IS A PAINFULLY SMALL AMOUNT OF MONEY. HOWEVER, AS PROFESSIONAL ECONOMIC DEVELOPMENT PEOPLE WE CANNOT IN GOOD CONSCIENCE REQUEST ADDITIONAL FUNDING AT A TIME WHEN THE CONGRESS IS STRUGGLING TO BALANCE THE FEDERAL BUDGET. RATHER, WE URGE THE CONGRESS TO, NUMBER ONE, PRESERVE LEGISLATIVELY, THE EXISTING SET ASIDE FOR 3 MILLION DOLLARS IN THE EDA BUDGET FOR MANAGEMENT AND TECHNICAL ASSISTANCE CENTERS. NUMBER TWO, THAT CONGRESS ENCOURAGE OTHER FEDERAL AGENCIES TO UTILIZE EXISTING FUNDING TO JOINTLY FUND MANAGEMENT AND TECHNICAL ASSISTANCE CENTERS FOR THE DELIVERY OF SERVICES ASSOCIATED WITH ENERGY DEVELOPMENT

PROGRAMS, FARMERS HOME ADMINISTRATION RURAL DEVELOPMENT PROGRAMS, THE EDA FINANCE PROGRAM AND VARIOUS SMALL BUSINESS ADMINISTRATION LOAN AND TECHNICAL ASSISTANCE PROGRAMS RATHER THAN CREATING NEW DELIVERY VEHICLES FOR EACH PROGRAM. NUMBER THREE, INCLUDE MANAGEMENT AND TECHNICAL ASSISTANCE CENTERS IN FUTURE LEGISLATION WHERE DELIVERY OF PROFESSIONAL ECONOMIC DEVELOPMENT RELATED SERVICES IS NEEDED. NUMBER FOUR, CONSIDER IN FUTURE YEARS PROVIDING A FEDERAL INVESTMENT OF 20 MILLION DOLLARS (APPROXIMATELY 400,000 DOLLARS PER STATE) FOR A NETWORK OF MANAGEMENT AND TECHNICAL ASSISTANCE CENTERS. THIS IS THE AMOUNT OF FUNDING THAT WE FEEL IS NECESSARY FOR PROPERLY MAINTAINING SUCH A NETWORK. I MIGHT POINT OUT THAT ALL CENTERS ARE PROVIDED MATCHING FUNDS BY THE STATE OR UNIVERSITY WHEREIN THEY ARE LOCATED.

THE FREE ENTERPRISE SYSTEM IS THIS COUNTRY'S MOST VALUED ASSET. SPEAKING FOR THE CENTER DIRECTORS AND PROFESSIONAL STAFF PEOPLE THAT SEE THIS SYSTEM IN ACTION EVERY DAY, WE BELIEVE THAT IT IS TIME FOR THE FEDERAL GOVERNMENT TO PAY ATTENTION TO THE ECONOMIC ENGINE THAT PROPELS THIS COUNTRY'S GROWTH, NOT THORUGH MACRO-ECONOMIC POLICY THAT ATTEMPTS TO CONTROL THE ECONOMY FROM THE TOP DOWN BUT BY BUILDING OR REBUILDING FREE ENTERPRISE FROM THE BOTTOM UP. IT IS A PROCESS THAT REQUIRES EDUCATION OF OUR YOUNG. IT IS A PROCESS THAT REQUIRES OCCASIONAL ASSISTANCE TO THE BUSINESSMEN AND COMMUNITIES THAT ARE TRYING TO MAKE THE SYSTEM WORK.

THERE IS NO BETTER PLACE TO INTEGRATE THE EDUCATIONAL AND ECONOMIC DEVELOPMENT EFFORTS OF OUR NATION THAN IN THE UNIVERSITY ECONOMIC DEVELOPMENT CENTERS. I URGE THE CONGRESS TO MAKE USE OF AND EXPAND THIS NETWORK OF CENTERS THAT HAS PROVEN TO BE WHAT I BELIEVE TO BE THE MOST EFFECTIVE AND EFFICIENT FEDERAL GOVERNMENT PROGRAM IN EXISTENCE TODAY.

COURTS OF APPEALS, DISTRICT COURTS AND OTHER JUDICIAL SERVICES

[The following statement from Angelo W. Locascio, Clerk, United States District Court, District of New Jersey, was submitted to the Committee concerning the fiscal year 1981 budget request for Courts of Appeals, District Courts, and other Judicial Services:]

TO: The Honorable Chairman and Members
Subcommittee of the Committee on Appropriations

Statement of Angelo W. Locascio
Clerk, United States District Court,
District of New Jersey, before the
Subcommittee on budget request,
Item #5 of the Budget submitted
on behalf of the Administrative
Office of the United States Courts
on February 5 and 6, 1980.

PREFACE

Mr. Chairman, and members of this honorable Committee, I make this statement with a sense of regret yet with a deep, abiding, moral and principled concern for the future of judicial administration in the Federal system. I say this not only because a proud tradition is being needlessly tampered with but, more importantly, because this Committee is being asked to illegally denude a constitutional office that I have personally strived to improve in order to promote the cause of effective court administration for many, many years.

Obviously, as an incumbent clerk of a metropolitan court for over ten years, I have a vested interest in the position which this budget request is attempting to emasculate. I would be remiss, however, if I did not advise you that the Chief Judge of my court would not delegate any of the duties enumerated in the budget request, all of which are currently performed by me, to an assistant circuit executive if such a position is assigned to our court.

STATEMENT

The budget request of the Administrative Office, as outlined in item #5, would have this Committee approve the initial sum of $1,081,000.00 for fifteen assistant circuit executives and fifteen secretaries to be appointed by the circuit executives and assigned to Metropolitan District Courts having ten or more judgeships.

Additional funds are also included for these positions under the headings "Travel and Miscellaneous Expenses" and "Space and Facilities".

The rationale for this request, as outlined in item #5, is the increasing caseload of the courts, the anticipated impact of the Omnibus Judgeship Bill of 1978, and other recently enacted legislation which impacts on the district court workload as a result of which it is stated that the Chief Judges of Metropolitan Courts cannot perform all of their administrative duties and responsibilities without the assistance of an assistant circuit executive. The request is further bolstered by a recent resolution of the Metropolitan Chief Judges (October, 1979) which calls for a court administrator for metropolitan courts. While there is indeed a resolution to this effect, I am advised that many of the participants at the meeting from

whence this resolution was borne did not envisage a position with appointment powers of the circuit executive which would completely emasculate the office of the Clerk with probable reduction in grade, but instead, had in mind a staff position. Regardless of the apparent misconceptions of some, the resolution speaks for itself and any further interpretation of it will have to come from the Metropolitan Chief Judges and/or the Judicial Conference.

The authority which the Administrative Office recites for this budget request to create thirty new positions to be assigned to District courts at an initial cost of over $1,000,000.00 is Public Law 91-647 which authorized the appointment of a circuit executive for each judicial circuit. This Act further provides that "the circuit executives may appoint, with the approval of the Council, necessary employees in such number as may be approved by the Director of the Administrative Office of the United States Courts." No further authority is cited by the Administrative Office.

I respectfully submit that the Administrative Office request (1) cannot be bottomed upon the Circuit Executive Act, (2) is contrary to Congressional action which has already rejected the concept of district executives, (3) is a clear violation of House Rules, (4) would provide for an unconstitutional usurpation of the power of appointment of a district

court, (5) is in conflict with an existing Judicial Conference resolution which approved a "Mission Statement for the Office of the Clerk", and (6) would result in the addition of an unnecessary costly executive layer to the district court system.

1) The Circuit Executive Act

The Act as finally approved by the Congress provided only for the appointment of court executives for the eleven judicial councils. Senate Report #91-1511 which recommended passage of the Act and House Report #91-1543 which accompanied H. R. 17901, the Bill approved by the Congress, both state in the purpose section of the reports that "the purpose of the bill...is to improve the administration of justice in the Federal Appellate Courts...". Throughout each report the language speaks in terms of the administration of appellate courts and the management of the affairs of the Circuit Courts. No mention is made of administering District Courts. As stated in the Federal Judicial Center publication, the Impact of the Circuit Executive Act, McDermott and Flanders, (April, 1979), at page 17

> "...a broad interpretation of section 332(e), making the circuit executive responsible for improving the administration of all courts

> within the circuit, seems to be in conflict with the purpose of the bill the Senate originally proposed. S.952 provided for both district court executives and circuit court executives and seemed to suggest that each would act independently: the circuit executives responsible for management of the court of appeals and the district court executives responsible for the management of the largest district courts. Indeed, a close reading of section 332(e) indicates that the major "management" responsibilities suggested for the circuit executive relate only to the court of appeals. Only subdivisions six, nine and ten refer to "the courts within the circuit," and those relate only to studies, meetings and reports. The circuit executive's statutory relationship with the district courts is largely derivative, stemming from the judicial council's responsibility under section 332(d)."

It is crystal clear from a reading of the legislative history of the Act that the Circuit Executives' administrative responsibilities lie with the Circuit Court. Any appointive authority he may be cloaked with must relate solely to the Circuit Court. Ergo the proposed appointment of assistant circuit executives to be assigned to administer District Courts is completely without foundation in law.

2. Congressional Rejection of District Court Executives.

H. R. 17901, the bill finally approved by the Congress, was a product of nearly three years of careful

legislative study. The House Bill rejected the proposal in S.952 which would have provided for district court executives in courts with six or more judges. What the Administrative Office has done in this budget request is to take a concept already rejected by the Congress, wrapped it in a different package and now would have this Committee place its imprimatur upon it.

I most respectfully submit that the Congress has spoken on the subject. This Committee must stay its hand in this matter. Indeed, it is without authority to do otherwise.

3. Breach of House Rules

The Administrative Office request is an attempt to create what is in effect a new statutory position. I respectfully submit that the position cannot be initiated through the appropriation process as it would offend House Rules. The position must be the subject of substantive legislation by the Congress.

4. Unconstitutional Usurpation of Powers Given to the District Courts

The Clerk of the Court is one of the offices contemplated by the provision in the Constitution (Art. 2, Section 2) giving the Congress the power to vest the appointment of inferior officers as they think proper. The appointing

power designated by the constitution, in the latter part of the second section of the second article of the constitution was, no doubt, intended to be exercised by the Department of the Government to which the officer to be appointed most appropriately belonged. Matter of Hennen 38 U.S. 230; 13 Pet. 230.

Congress, in the exercise of the power here given, declared that the district courts may appoint a clerk who shall be subject to removal by the Court. Vide 28 USC 751(a). Title 28 U.S.C. 751(b) authorizes the Clerk to appoint necessary personnel in such numbers as may be approved by the Director of the Administrative Office. Title 28 U.S.C. 956 asserts that "the clerk...shall exercise the powers and perform the duties assigned...by the court."

The late Honorable John Biggs, Chief Judge of the Third Circuit and Chairman for many years of the Committee on Court Administration of the Judicial Conference, declared in U. S. vs. Monjar, 154 F. 2d 954, that "a clerk of a district court of the United States is the court's principal administrative officer."

Under the Administrative Office proposal, an assistant circuit executive appointed by a circuit executive

and not the district court would administer the district court system including, but not limited to, the personnel system of the court. This, I respectfully submit, is a clear unconstitutional usurpation of the power of appointment of a district court. Matter of Hennen, supra.

It is further submitted that the two offices, as contemplated by the Administrative Office, would be inconsistent with each other and could not stand together. The assistant circuit executive would be assuming the duties of the clerk to such a degree, including certain statutory duties, that the position would amount to an ipso facto replacement of the clerk.

5. Mission Statement for the Office of the Clerk

The Judicial Conference of the United States at its September 15-16, 1977 session approved a report entitled "Mission Statement for the Office of the Clerk". The statement had previously been approved by the Conference of Metropolitan Chief Judges. The Mission Statement lists many of the responsibilities and functions which the Clerk must perform in administering the district court system. A review of this document will reveal that many of the duties outlined therein are listed in the Administrative Office

proposal for execution by the assistant circuit executive. The resolution of the Judicial Conference approving the Mission Statement has never been repudiated by the Conference and is, therefore, still in full force and effect. I respectfully submit that the Administrative Office proposal is inconsistent with a policy statement of the Judicial Conference (copy annexed as Exhibit I).

6. Unnecessary, Costly Additional Layer of Authority

The request for authorization of the appointment of assistant circuit executives by the circuit executive lists duties which may be exercised by the assistant circuit executive. Addressing said duties seriatim, I would respectfully direct the attention of the Committee to the practice in New Jersey.

a. Exercising administrative control of all nonjudicial activities of the district court in which he is appointed.

The Clerk of the Court presently exercises administrative control over all nonjudicial activities of the district court. Additionally, supporting arms of the court (Magistrates, Bankruptcy Judges, Probation, Court Reporters) are encouraged to work through the Clerk as the liaison for

the court with respect to problems which may arise within their sphere of influence. In the event a particular problem is brought directly to the attention of the Chief Judge, the Clerk is then requested to make a recommendation or comment thereon.

b. Administering the personnel system of the District Court.

Complete control of the personnel system of the Clerk's office is delegated to the Clerk. In addition thereto, as payroll certifying officer for the court, the Clerk is responsible for handling inquiries from the judges (including Magistrates), secretaries of the judges, law clerks, court reporters, and clerical assistants which may relate to any personnel matter. By statute, the court appoints official court reporters; ergo, the clerk and the proposed assistant circuit executive is without authority to assume this duty. The appointment of a chief probation officer is also a statutory appointment of the court. I submit it would be bad management practice to have either the clerk or the proposed assistant court executive administering the personnel system of the probation office.

c. Administering the budget of the District Court.

The Clerk presently drafts and administers the budget for the judges, magistrates, the court reporters and the clerk's office. The probation office forwards its budget request to the clerk who, in turn, reviews it and submits it to the Administrative Office at the direction of the Chief Judge.

d. Maintaining a modern accounting system.

The Clerk maintains an accounting system for the functions under his supervision. Modern business methods and equipment are utilized where feasible.

e. Establishing and maintaining property control records and undertaking a space management program.

Property control records are presently maintained by the Clerk with periodic inventory and review of the property to determine future requirements, surplus property and property which should be disposed of due to superannuation; all space management problems are delegated to the clerk. Recently, due to extremely critical space problems throughout the whole district, occasioned by the Bankruptcy Reform Act, the Omnibus Judgeship Bill and the appointment of an additional full-time United States Magistrate

the court has appointed three judges and the clerk to work as a committee on the immediate space problems of the court.

f. Conducting studies relating to the business and administration of the court and preparing appropriate recommendations and reports to the Chief Judge and Circuit Executive.

The Clerk at the direction of the Court and on his own initiative is continually conducting studies for the court on its business and administration with resultant appropriate recommendations and reports.

g. Collecting, compiling, and analyzing statistical data with a view to the preparation and presentation of reports based on such data as may be directed by the Chief Judge, the Circuit Executive and the Administrative Office of the United States Courts.

The Clerk collects, compiles, and analyzes statistical data for preparation and presentation of reports, as may be directed or requested by the Chief Judge, the Circuit Executive, the Administrative Office, other Governmental agencies, bar associations and private parties.

h. Representing the district court as its liaison to the various courts of the State in which the district court is located, the Marshal's office, State and local bar associations, civic groups, news media, and other private and public groups having a reasonable interest in the administration of the court.

At the direction of the Chief Judge, the Clerk acts as liaison to the various courts of the State, the Marshal's office, State and local bar associations, civic groups, news media and other private and public groups having an interest in the administration of the court. For the past several years, the Clerk has been appointed by the President of the New Jersey State Bar Association to its Standing Committee on Federal Practice and Procedure. The Clerk appears at County Bar Associations to speak on Federal Practice and Procedure and supervises visits to the court by school-age groups.

i. Arranging and attending meetings of the Judges of the District Court, including preparing the agenda and serving as secretary in all such meetings.

Since 1951, the court has held regular periodic meetings of the Judges of the court with the Clerk of court serving as the secretary. The writer has been serving in this capacity for the past ten (10) years. The Clerk prepares the agenda, transcribes the minutes and distributes the same to the members of the court. The Clerk is expected to make appropriate recommendations on all topics on the agenda (copy of recent minutes annexed hereto as Exhibit II).

j. Preparing an annual report to the District Court, the Circuit Executive, and to the Administrative Office of the United States Courts for the preceding calendar year, including recommendations for more expeditious disposition of the business of the District Court.

The Clerk prepares a monthly statistical report and an annual report which is distributed to each member of the court, the Chief Judge of the Circuit and the Clerks Division of the Administrative Office. The reports include recommendations and comments on the status of the dockets (copy of recent reports annexed hereto as Exhibit III). The Clerk also prepares an annual report for the Third Circuit Conference which is forwarded to the Circuit Executive (copy annexed hereto as Exhibit IV).

In addition to the duties outlined above and the duties he must perform pursuant to statute and Administrative Office regulations, the Clerk of the Court in New Jersey is also responsible for (a) the primary drafting of all local rules; (b) the drafting of all court plans such as the Jury Selection and Service Plan, the Criminal Justice Act Plan, the Speedy Trial Act Plan, etc.; (c) the drafting of the quadrennial, now biennial requests for additional judgeships;

(d) drafting of requests for the continuation of the appointment of magistrates and for additional appointments of magistrates; and (e) also acts as secretary to the Magistrate's Selection Panel in accordance with the recent amendment to the Federal Magistrates Act.

It is apparent from the above that the functions and duties proposed for the assistant circuit executive are presently being carried out by the Clerk of the Court in New Jersey. I would suspect that most of these same duties are delegated and are being performed by incumbent clerks of court in other Metropolitan courts. Undoubtedly, in some courts certain specific functions may not be performed by the Clerk of Court but I would venture to say that they are not being delegated to the clerk by the court. This is not to say that every clerk in the system has the ability or the staff, or, indeed, the time to perform all of the duties and responsibilities that a chief judge would prefer to delegate. Furthermore, there are some chief judges who are unwilling to relinquish authority in certain areas to anyone.

To those critics who voice the opinion that some clerks are not competent to perform the duties outlined in this budget request and to those courts that refrain from utilizing their clerks in such an executive capacity because

of the lack of confidence in the ability of the clerk, I respectfully submit that the fault lies with the execution of the appointive power of the subject courts. As the late Judge Murrah stated quite aptly "the clerk's office is not the dumping ground for misfits...if he (the clerk) is incompetent, they should get another one." The appointment of a clerk of court should be looked upon with no less importance than a judicial appointment. Cronyism, promotion of the senior person in the office, compassion for the devoted and loyal employee of a judge and other similar irrelevancies, have and deserve no place in the management of a court system.

The Clerks have developed "Standards and Procedures for the Selection of Clerks of Court" and a "Standard Job Announcement" (copy annexed hereto as Exhibit V) which are presently before the Judicial Conference. We recommend mandatory application of the standards. Recognizing that this would require Congressional action, in the interim we suggest that the Judicial Conference adopt the standards in strong and unequivocal language.

In the legislation that gave rise to the office of circuit executive, a similar office of district executive was proposed for district courts with six or more judges. As noted supra, this part of the legislation was not enacted.

One of the main reasons for its elimination was that several spokesmen for the district courts indicated that in many of the more successfully administered courts, the clerk of the court was already acting as the executive officer. The success of these courts depended on the ability of the judges and particularly the chief judges to perceive the need for such a role and the ability and willingness of the clerk to adapt to such a role. In many of the courts, it has been a process of steadily enlarging the responsibilities of the clerk until he or she shows, to the court's satisfaction, that such an expansion of the clerk's role is not only possible but that it would result in more effective administration.

While many state court systems have opted for both a clerk and a court administrator at the trial court level, this is principally because clerks are elected officials rather than being appointed by the court. Thus, to obtain needed administrative expertise, State courts have had to create a separate office of the court administrator. There is no need for this unnecessary appendage in the Federal system. Clerks are <u>appointed</u>, not <u>elected</u>, and, therefore, each court already has the power to appoint a skilled manager to supervise the nonjudicial activites of the court.

The budget request contains the statement that "Chief Judges simply cannot perform all of their administrative duties and responsibilities without the assistance of responsible personnel who can assume some of the burdens of the office. To date, the chief judges have often been required to use their legal staff to assist with district court administrative requirements." I state unequivocally that no chief judge that I have had the privilege to work with has ever had to utilize his legal staff to assist him with district court administrative requirements. Moreover, I seriously doubt whether more than a handful of metropolitan chief judges have ever had to do so.

I cannot quarrel with the fact that the inexorable rise in case filings and the judicial impact of recent legislation have brought home the compelling need for improved management in the district court system. I also agree that there is a need for some responsible personnel to assist with some of the administrative burdens in a Metropolitan District Court. Oftentimes in order to accomplish the tasks delegated by the court I must work at home at nights and on weekends. I respectfully disagree, however, with the costly approach that the Administrative Office would have you sanction. At a time

when the President is calling for a careful pruning of the budget requests, the Administrative Office would have you graft a new expensive layer of executive authority on an already overloaded system. In providing for the appointment of assistant circuit executives by circuit executives to assist and relieve Chief Judges of administrative burdens, the Administrative Office must be of the opinion that the experience of Circuit Executives at the appellate level has been an overwhelming success. If that evidence is in I see no reference to it in any of the objective literature on judicial administration. To the contrary, I respectfully refer you once again to the Federal Judicial Center publication, The Impact of the Circuit Executive, McDermott and Flanders (April, 1979) wherein the authors state, beginning on page 68, that -

> "The Act clearly contemplates that the circuit executive was intended to serve, in part, as administrative assistant to the chief judge as well as other judges of the court, relieving them of administrative burdens to the extent possible. Unfortunately, it cannot be said that the circuit executives as a group have been entirely successful in achieving this goal. In many circuits the chief judge is unwilling or unable to delegate important administrative matters to the circuit executive. In a few, the circuit executive has not demonstrated the ability to discharge such responsibilities."

The Committee should keep in mind that these same executives have been duly certified by the statutory board as qualified for these duties.

I respectfully submit that a viable alternative exists, one which this Committee has the authority to sanction and at a cost far below the amount cited by the Administrative Office. Present staffing levels of district court clerks' offices are based, in the main, upon "filing equivalents" which authorize a deputy clerk for each one hundred "filing equivalents". If each metropolitan clerk's office were authorized an additional staff position, possibly two in the largest courts, regardless of the number of "filing equivalents", at a respectable grade level (JS-13 or 14) to assist the court primarily in the areas outlined in the Mission Statement for Clerks and the Administrative Office Budget Request, we would be able to fully discharge the executive mission contemplated by the resolution of the Metropolitan Chief Judges.

The higher grade levels are a must if we are to attract competent people who are interested in careers in judicial administration. Unfortunately, Clerks have found it to be a difficult task to convince certain Administrative

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Office staff of this managerial need. I see no requirement for additional secretarial staff for these positions. The cost for the positions would be less than half the amount which the Administrative Office would have you obligate.

Of course, if this alternative approach were to be adopted by this Committee, I would hope that the Committee would exact a quid pro quo - that the metropolitan courts would be expected to adopt the mandatory "Standards and Procedures for the Selection of Clerks of Courts", drawn up by the Clerks of Court, which have been presented to the Judicial Conference for their consideration.

Office of the United States Trade Representative, International Trade Commission, and the Economic Development Administration

[The following statement from F. A. Meister, President of the American Footwear Industries Association, was submitted to the Committee concerning the fiscal year 1981 budget requests for the Office of the United States Trade Representative, the United States International Trade Commission, and the Economic Development Administration:]

TESTIMONY OF

F. A. MEISTER, PRESIDENT

OF

THE AMERICAN FOOTWEAR INDUSTRIES ASSOCIATION

BEFORE THE SUBCOMMITTEE ON STATE, JUSTICE, COMMERCE AND JUDICIARY

COMMITTEE ON APPROPRIATIONS,

U.S. HOUSE OF REPRESENTATIVES

THE IMPORTANCE OF ADEQUATE FUNDING FOR

THE U.S. TRADE REPRESENTATIVE, THE U.S. INTERNATIONAL TRADE COMMISSION,

AND THE TRADE FUNCTIONS OF THE DEPARTMENT OF COMMERCE

TO THE NON-RUBBER FOOTWEAR INDUSTRY

MARCH 13, 1980

3/12/80

THE IMPORTANCE OF ADEQUATE FUNDING FOR
THE U.S. TRADE REPRESENTATIVE, THE U.S. INTERNATIONAL TRADE COMMISSION,
AND THE TRADE FUNCTIONS OF THE DEPARTMENT OF COMMERCE
TO THE NON-RUBBER FOOTWEAR INDUSTRY

SUMMARY

The American Footwear Industries Association (AFIA), whose members account for approximately 90% of domestic non-rubber footwear production and a substantial number of suppliers to the industry, requests that you provide sufficient funding and staffing levels in your recommendation on the Fiscal Year 1981 authorization for the U.S. Trade Representative, the U.S. International Trade Commission, the U.S. Customs Service, and the trade functions of the Department of Commerce.

All of the above cited agencies or departments are charged by the Congress with critical trade responsibilities, the prompt and effective implementation of which are especially vital to import-impacted industries such as the domestic non-rubber footwear industry.

It is safe to say that without adequate funding and staffing levels, these vital agencies will not be able to assist our industry and others as charged by law.

In particular, each of the above-mentioned agencies is involved integrally with President Carter's program to revitalize the footwear industry and to control shoe imports. The Office of the U.S. Trade Representative has the primary responsibility for proper implementation of the President's import control program. Also, as the chief trade negotiator, USTR is responsible for ensuring the elimination of unfair trade practices of other nations, which negatively impact domestic manufacturers. In the case of footwear, this currently involves negotiations to eliminate unfair restrictions on cattlehide exports.

Specific responsibilities of the International Trade Commission to the footwear industry include the continued monitoring of the health of the domestic industry, as required under law. On a broader scale, the Trade Act of 1979 requires the ITC, for the first time, to determine injury in countervailing duty cases. This, in addition to the anticipated increase in anti-dumping investigations, surely will add to the agency's workload. Also, the ITC now is working on a major revision of the Tariff Schedules of the U.S. (TSUS). This immense task is important to develop meaningful import and export statistics, not only for footwear, but for every U.S. industry.

Continued application of sufficient resources within the Department of Commerce is vital to the revitalization efforts of the footwear industry. DOC has a key role in (a) monitoring footwear imports, (b) providing an early warning of control violations, and (c) developing a coordinated program of technical and financial assistance designed to enhance the competitive position of the industry. The Department of Commerce actively is involved in the industry's successful export promotion program, in the development of the American Shoe Center, and in the specialized Trade Adjustment Assistance Program for our firms.

KEY POINTS

The U.S. Trade Representative

The Office of the U.S. Trade Representative has the primary responsibility for proper implementation of the President's import control program for footwear.

This program consists of 1) negotiated restraints on imports from Taiwan and Korea for a period of four years (June 30, 1977 to June 30, 1981) and 2) assurances that other countries will not surge to make up for the rollback on Taiwan and Korea. (Indeed, such assurances, made both to the industry and to the Congress, were the key underpinning of our industry's acceptance of the Administration's program, rather than the global quotas for which we pressed.) Unfortunately, there has been virtually a complete failure of the import relief program. In 1978, Taiwan and Korea blatantly circumvented the OMA's through a dramatic switch into rubber/fabric footwear, which is virtually identical to non-rubber footwear, but is not subject to the quota restrictions of the OMA's. Then, in 1979, non-rubber footwear imports from "cap-controlled" countries (most notably Italy, Hong Kong, the Philippines, and Singapore) were permitted to surge to unprecedented levels. Last year, while non-rubber imports from Korea and Taiwan were down by 50.5 million pairs from 1976 levels (the base year for the OMA's), other countries increased shipments to the U.S. by 85.0 million pairs, thereby negating totally the rollback on Taiwan and Korea.

After more than 2½ years of a "relief" program, it is clear that the domestic footwear industry still has not received the relief to which it is entitled under the Trade Act. We are, however, working closely on this vital issue with the Office of the U.S. Trade Representative, in an effort to remedy the situation. We have found Ambassador Reubin Askew and his new staff to be understanding of our need for a more effective import control program. They have been amenable to meetings and discussions with the industry and our unions, and finally appear to be working with us to improve the program. We expect to continue to work very closely with USTR throughout 1980 and 1981, particularly in view of the possibility of an extension of the import relief program beyond mid-1981.

USTR also is deeply involved in another matter of critical importance to the domestic footwear industry - the freeing up of the world supply of cattlehides. USTR recently negotiated an agreement with the Government of Argentina, lifting that country's embargo on cattlehide exports, and now is working with us to assure proper implementation of the agreement. USTR is pursuing similar agreements with the Governments of Brazil and Uruguay.

USTR must continue to give high-level attention to the hide problem. Without more hides freely traded in the world market, we could witness a reoccurrence of the disastrous price increases, market volitility, inflationary impact and inequitable U.S. export level we suffered in 1979.

The International Trade Commission

Pursuant to the President's import relief program for footwear, the International Trade Commission has been delegated responsibility for monitoring the health of the domestic industry. The ITC must spend considerable time and resources to develop meaningful questionnaires, and then to interpret the data received, to evaluate the status of the industry on a quarterly and an annual basis. This information is vital to assess the success of the relief program and the industry's revitalization efforts.

We also are working closely with ITC officials on a proposed revision of the Tariff Schedules for footwear. This major undertaking should result in much-needed schedule changes to enhance the comparability between domestic production and import data, which is essential to improve the industry's ability to analyze better the total U.S. footwear market, and gear its own production and marketing efforts accordingly.

Further, we are working with the ITC to develop more meaningful export statistics, which now are provided only in the very broadest terms. This will provide us with more complete and accurate information that can be correlated to import and production data so that trade patterns in the industry can be analyzed more accurately, and additional export markets can be explored.

In addition, under the Trade Act of 1979, ITC injury findings will be required, for the first time, before countervailing duties can be assessed. This new responsibility of the ITC can be expected to increase substantially its workload. In this area, too, the domestic footwear industry is involved, for we have long been fighting against unfair foreign subsidies on footwear. As a result of our efforts, there currently are countervailing duties on footwear from Brazil, Spain, Argentina, Korea and India; new cases may be filed, as necessary. (It should be noted that one of the first countervailing duty injury cases to come before the ITC this year was that concerning footwear uppers from India. This case was initiated by the domestic footwear industry, and required an extensive investigation by the ITC prior to the hearing before the Commission on February 4.

Clearly, generous resources are necessary to carry out the vast responsibilities of the International Trade Commission.

The Department of Commerce

The Department of Commerce (DOC) has a major and critical role in the revitalization of the domestic footwear industry. When the President announced his determination to negotiate Orderly Marketing Agreements in April, 1977, he also directed the Commerce Department to develop a program to enhance the competitive position of the domestic industry. To that end, we have been working very closely with DOC officials on a broad variety of programs.

The footwear industry, with DOC assistance, has undertaken a major export promotion program. Thus far, 72 U.S. companies have exhibited their footwear in three major export events, consisting of Trade Missions and Trade Shows, throughout Europe. A fourth export trip is planned for March, 1980 with a complement of 20 additional firms. The success of the joint DOC/industry effort is apparent from the increased level of footwear exports in 1979. Last year, a record 9.3 million pairs of made-in-USA shoes were sold abroad, compared to only 5.5 million in 1977, and 6.9 million pairs in 1978. In December, 1979, for the first time, more than 1 million pairs were exported. In addition, the export trend is increasing; 1979 exports were 33.5% above 1978, which were already 28% above the 1977 mark.

To a very great extent, the future of the export program will depend on the amount of funding we are able to secure from DOC. In the hopes that such funding will be available, we now are pursuing with DOC research studies on the Latin America/Caribbean market. This market area, which is our largest both in terms of pairs and dollars, could represent another area of potential export expansion.

Given the increased recognition of the importance of expanding U.S. exports, it is only consistent with government policy objectives that adequate funding be made available to DOC to insure that it is able to carry out an aggressive export expansion program. This is particularly important to help footwear and other import-impacted industries compete in world markets.

Another area of importance is trade adjustment assistance, which is administered by DOC's Economic Development Administration (EDA). The domestic footwear industry has made extensive use of the technical and financial benefits available under this program in its efforts to modernize and revitalize. As of January 20, 1980, exactly 2½ years after the onset of the DOC footwear industry revitalization program, 121 firms had petitioned for certification for trade adjustment assistance benefits. Ninety-four firms have been certified. During this period, footwear firms have received a total of nearly $56 million in loans and loan guarantees.

A major shortcoming of the Trade Adjustment Assistance provisions of the Trade Act of 1974, however, is that firms supplying import-impacted industries are not eligible to receive trade adjustment assistance benefits. Because of the interdependency of footwear manufacturing firms and their suppliers, the health of one frequently affects the health of the other. Therefore, our industry long has supported expansion of trade adjustment assistance benefits to supplier firms, as provided for in H.R. 1543. This legislation now is awaiting a vote in the Senate. Adequate funding must be available to EDA to help our supplier firms, as well as our manufacturers, revitalize through TAA benefits.

Our industry also has been working very closely with DOC's Office of Science and Technology on the establishment of an American Shoe Center. The purpose of the Center is to provide vital manufacturing and technology expertise to our industry. We are now in the final stages of negotiating with DOC on the establishment of the Shoe Center, which is expected to open this year. Adequate monies must be made available to DOC to assure that the required start-up funding is available.

DOC also must be able to maintain its current level of funding for special data now being collected by the Bureau of Census from our industry on key indicators of the industry's level of economic activity and health. We understand that DOC may eliminate funding for these special Census studies. Compared to other government agencies which compile data on the industry, only the Bureau of Census has complete coverage of the indusry in its surveys. It is, therefore, vital that Census continue to be given DOC monies to continue this monitoring function.

In addition, DOC has been a very strong supporter of the necessity for an effective import relief program to provide the footwear industry with a breathing space in which to revitalize.

Under the new Trade Act, DOC will have major responsibility for the administration of countervailing duty and anti-dumping cases, previously handled by the Treasury Department. As discussed earlier, our industry has had extensive involvement in countervailing duty cases. It is essential to the many industries that seek redress from unfair foreign trade practices that an adequate level of funding be provided to enable DOC to carry out these new functions in a more timely and effective manner than they were handled at Treasury.

Finally, the Department of Commerce requires resources to assist all segments of the footwear industry -- manufacturers, suppliers and retailers -- in the industry's efforts to provide consumer education on footwear. The industry-supported Footwear Council, located in New York City, provides our only industry-wide source of consumer education. In the upcoming year, the Council will work with the Department of Commerce to explore the possibility of DOC assistance to this important effort.

CONCLUSION

The foregoing indicates the extensive involvement of the domestic footwear industry with the U.S. Trade Representative, the U.S. International Trade Commission, and the Department of Commerce. We work closely with these agencies, on a day-to-day basis, on numerous and extremely critical programs. The programs administered by each of these agencies exert a considerable influence on the domestic footwear industry, and to a very large extent, will determine its future. Our industry is only one of many; these agencies clearly have a major stake in all others involved in international trade.

Given the increased recognition of the importance of international trade, effective public policy dictates that sufficient levels of funding and staffing be provided to each of these agencies so that they can carry out most effectively their responsibilities and meet our domestic and international obligations.

SMALL BUSINESS ADMINISTRATION

[The following letter from Deann E. Murphy, owner of Distlefink Designs, was submitted to the Committee concerning the fiscal year 1981 budget request for the Small Business Administration:]

DISTLEFINK DESIGNS
BOX 358
PELHAM, NEW YORK 10803

April 6, 1980

Hon. Neil Smith
Acting Chairman
State Justice Commerce Sub-Committee on Appropriations
Room H 218
U.S. Capital
Washington, D.C. 20515

Dear Sir:

I sincerely regret that the over-crowded hearings agenda on The Budget for Women's Business Enterprised did not enable me to testify before your Committee in person.

I would like to take this opprotunity to recommend your continued and increased fun.ling of programs serving women in business.

In the Spring of 1972, I founded Distlefink Designs, a company specializing in the design and manufacture of needle-work and craft kits. Presently we design and produce a line of craft proudcts for national magazines (Woman's Day, Good Housekeeping, Family Circle, etc.), national catalogs, and direct response T.V. promotions. The company has continued to grown in volumn and profits since 1972.

In 1977 my production partner passed away. At that time I was exceptionally fortunate to be able to participate in a new federally funded program for woman entrepreneurs, American Woman's Economic Development Corporation (A.W.E.D.). This organization offered me technical assistance and peer support at a critical time in my business. It helped me, as a sole owner, to make the transition to operate Distlefink Designs on a sub-contract basis in an increasingly profitable manner. In addition, in 1978, I diversified and purchased, with two partners, a former Inne on the Connecticut shore which we renovated and put into operation again, Presently, with the assistance of an expert A.W.E.D counselor and financial advisor, I am expanding my business beyond our traditional mail order markets into major retail accounts.

My continued participation in this federally funded program has been invaluable to the survival and growth of Distlefink Designs. It is with the utmost confidence in and concern for women and for the development of small business in America that I recommend your support for increased funding of programs aimed to assist women entrepreneurs.

Very truly yours,

Deann E. Murphy

Deann Ellison Murphy
Owner

DM/jg

Small Business Administration

[The following letter from Laura Woodward was submitted to the Committee concerning the fiscal year 1981 budget request for the Small Business Administration:]

LAURA WOODWARD
ATTORNEY AT LAW

100 PINE STREET, 27TH FLOOR • SAN FRANCISCO, CALIFORNIA 94111 • (415) 421-3606

March 21, 1980

The Honorable John M. Slack, Chairman
House Appropriations Committee's Selected
Subcommittee on State, Justice, Commerce
and Judiciary
U.S. House of Representatives
Washington, D.C. 20515

Re: Women's Business Enterprise

Dear Representative Slack:

The Senate Appropriations Committee's Select Committee on State, Justice, Commerce and Judiciary has apparently reacted very negatively to the above-captioned program. I understand that the committee is considering reprogramming FY 1980 SBA funds and cutting back the program's budget for 1981.

I feel that the proposed budget and application of funds overemphasizes training and counselling and underemphasizes what I view as the real need of businesswomen -- financing, access to information, and support services. Nevertheless, this is the first program which shows any promise of dealing with the very real problems women face in the marketplace as business owners, rather than as employees.

As you know, small businesses are the backbone of the nation's economy, employing more than two-thirds of the labor force. It is my understanding that the primary purpose of the SBA is to assist small business owners, partially for this reason. Increasing numbers of women have become small business owners. They have unique problems both in starting and maintaining a business. This program is the first pragmatic approach to dealing with those problems.

I urge you to review this worthwhile program and to support it.

Very truly yours,

Laura Woodward

Laura Woodward

LW/ed

Small Business Administration

[The following statement from the National Federation of Business and Professional Women's Clubs, Inc., was submitted to the Committee concerning the fiscal year 1980 budget request for the Small Business Administration:]

THE
NATIONAL
FEDERATION
OF
BUSINESS AND PROFESSIONAL WOMEN'S CLUBS, INC.
of the United States of America

2012 MASSACHUSETTS AVENUE, N. W.
WASHINGTON, D. C., 20036
293-1100

March 28, 1980

The Honorable Jamie L. Whitten
Chairman
House Committee on Appropriations
United States House of Representatives
Washington, D.C. 20515

Dear Chairman Whitten:

As a legislator concerned about women and business, we are enclosing a copy of the statement by the National Federation of Business and Professional Women's Clubs, Inc., which was submitted to the House Appropriations Subcommittee on State, Justice, Commerce and Judiciary, for hearings which they are holding on April 1 and 3, 1980. The statement addresses our support for the SBA's Women's Business Enterprise Program.

We urge your consideration of this statement. If you have any questions please do not hesitate to contact us.

Sincerely,

Julia K. Arri

Julia K. Arri
National President

Enclosure

JKA/mcd

THE NATIONAL FEDERATION OF BUSINESS AND PROFESSIONAL WOMEN'S CLUBS, INC.

STATEMENT ON THE SBA'S WOMEN'S BUSINESS ENTERPRISE PROGRAM

SUBMITTED TO

HOUSE APPROPRIATIONS SUBCOMMITTEE ON STATE, JUSTICE, COMMERCE AND JUDICIARY

APRIL 1, 1980

The National Federation of Business and Professional Women's Clubs, Inc. represents over 165,000 working women nationwide. As the oldest and largest organization of business and professional women in the country, we have a long-standing commitment to increasing opportunities for women in all areas of business and encouraging more women to become independent business owners.

We greeted the creation of the Small Business Administration's Women's Business Enterprise Program with great enthusiasm. This special program, which is targeted to identifying and assisting qualified women who want to establish their own businesses, is long overdue. We support adequate funding for this program so that it can be started in a meaningful way. The funding requests of $2.5 million for FY 1980 (to be reprogrammed from existing SBA activities) and $13.6 million for FY 1981 are necessary if the program is to be effective. We strongly urge the Subcommittee's approval of these funding requests.

It is clear that there are many qualified women who could be successful entrepreneurs. But, these women have faced discrimination in training, financing and the general attitude of the business community toward women-owned businesses. The SBA's Women's Business Enterprise Program has the potential to address many of these problems.

The special training and counseling centers which are proposed would assure that women have access to the high quality training and advice which are necessary for success in the competitive small business environment. Projects which help women obtain the credit and capital they need to begin or expand a business are especially significant because women continue to face discrimination from financial institutions. Other projects which would provide procurement assistance to women-owned businesses, help women gain access to existing business resources and improve the business climate for women entrepreneurs would also help to eliminate the effects of past discrimination.

Small business is at the heart of America's economic life. Women have been largely excluded from this part of the nation's economy by legal and social barriers. These barriers are beginning to fall, but it is imperative that the efforts to assure that women have full access to the rewards and challenges associated with owning their own businesses be accelerated. This is a good investment in the future both for American women and for the American economy. We believe that the SBA's Women's Business Enterprise Program is an appropriate way to ensure that more capable women can fulfill the American dream of owning their own businesses.

SMALL BUSINESS ADMINISTRATION

[The following statement from Barrett Stambler, for the Solar Lobby, was submitted to the Committee concerning the fiscal year 1981 budget request for the Small Business Administration:]

Board of Directors
Bruce Anderson (Chair)
Total Environmental Action
Eddie Albert
Actor/Environmentalist
Richard Archer
Southern Illinois University
Judi Basehore
TX Solar Action Coalition
Roger Blobaum
Blobaum & Assoc.
Heather Booth
Citizen/Labor Energy Coalition
Edward Carlough
Sheet Metal Workers
Wilson Clark
California Governor's Office
George Coder
Ohio Solar Energy Association
John Cohn
Energy Action of Santa Cruz (CA)
Herman Daly
Louisiana State University
Pam Dawber
Actress/Solar Advocate
Francis de Winter
Int'l. Solar Energy Society
Michael Evans
Wind Power Digest
Al Fritsch
Appalachia Science in the Public Interest
Gary Garber
WY Solar Alliance
Tom Hayden
SolarCal
Gay Holliday
Women Involved in Farm Economics (WIFE)
Ralph Johnson
Nat'l. Assn. of Homebuilders Research Fdn.
Judith Johnsrud
Eastern Federation
Lincoln Justice
Nat'l. Alcohol Fuels Producers
Richard Katzenberg
Natural Power, Inc.
Merle Lefkoff
SUN/REP
Joseph Lindmayer
Solarex Corporation
Mindy Lubber
Massachusetts PIRG
Edward Maschke
Sunrae (CA)
Margaret Morgan
Energy Task Force (NY)
Dick Munson
Solar Lobby
Robert Redford
Actor/Environmentalist
John Reynolds
Pacific N.W. Solar Energy Assn.
William Shurcliff
Harvard University
Michelle Tingling
Urban Environment Conference
Ben Wolff
American Wind Energy Assn.

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Solar Lobby
1001 Connecticut Avenue, NW, Suite 510
Washington, D.C. 20036
202-466-6350

April 15, 1980

Written Statement of Barrett Stambler

For the Solar Lobby

To the

Subcommittee on State, Justice, Commerce and Judiciary

of the House Committee on Appropriations

On the Small Business Administration's Energy Loan Program

The Solar Lobby was established two years ago as a result of widespread enthusiasm for renewable energy resources. We are a research and advocacy group based in Washington, D.C., supported by contributions from over 35,000 members. We are submitting this testimony to emphasize the importance of small business in the rapid development of a competitive, decentralized renewable energy industry. In lieu of this, we seriously question the wisdom of the Small Business Administration's decision to eliminate all direct loan funding for the 7 (L) Small Business Energy Loan Program and its decision to consolidate the 7 (L) program, molding it with other existing loan programs into one program.

We understand and sympathize with the Administration's and Congress' desire to cut federal spending and move toward a balanced budget in an attempt to curb inflation. However, we also recognize that a major factor in this rapidly rising inflation is our dependence on imported oil. We must eliminate this dependence as rapidly as possible, in part by developing a significant renewable

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energy program. The Domestic Policy Review (DPR) calculated that we can reduce our imports by one million barrels of oil per day by the year 2000, by increasing our reliance on renewable energy to 20 percent by that year. President Carter, acknowledging the strong public support and potential for solar energy, committed the nation to supplying one-fifth of its energy from renewable resources by the year 2000.

But, rhetoric is not adequate. We must have programs and funding. The Small Business Energy Loan Program is one program we believe fulfills such need.

In view of this belief, the Solar Lobby would like to make three specific recommendations concerning the Small Business Administration's FY 1981 budget request for the 7 (L) Small Business Energy Loan Program.

First, we reject the Administration's desire to combine the energy loan program with other SBA loan programs. The consolidation would, in effect, nullify the original intent of the program to provide direct, low-interest, high-risk loans to new solar small businesses.

The importance of small business in the solar field cannot be underestimated. Small business has traditionally been in the forefront of technical innovation, and its contributions in the field of energy are no exception. We believe that assisting solar small businesses will ensure a more competitive market and that this competition will foster further innovation, cost reductions, and better installation and service.

It is important to emphasize that a separate loan program for small businesses in the energy field was created with a specific purpose in mind--to provide small, and especially new, companies in the solar industry with access to capital. The 7 (L) program was established because many solar small businesses found that their access to capital was limited and that the private sector considered solar business too risky to receive loans. Because they deal with new and innovative products, because they are themselves newcomers, and because

capital markets in general have tightened up, solar companies find it very difficult to raise needed funds through the private sector. Whereas larger companies have the assets and collateral needed to obtain loans, young solar businesses are not in full charge of their own destiny.

Over the past few weeks, the Solar Lobby has been in touch with some of the businesspeople who have been able to obtain loans under this SBA loan program. They agreed that this program is essential to the development of small business in solar energy. Many said outright that their SBA loan made the difference between life and death for the firm--that it had enabled them to get on their feet. Clearly, this loan program is keeping individuals in the solar business and, consequently, helping the nation save energy--which is the basic intent of the 7 (L) program.

Second, direct loans are an essential part of an essential program. The Solar Lobby rejects the SBA's proposal to eliminate funding for direct loans.

From the looks of the loan requests during 1979 to SBA, it appears that over half the loans were for direct funding. One part of the SBA program exists to provide funds when conventional sources are unavailable. This concept is supported in the final rule published January 5, 1979: Section 130.8, "other financing," states that "no loan shall be made under this program unless the financial assistance is not otherwise available on reasonable terms from non-federal sources. Also an immediate participation will not be approved unless a guaranty participation is not available..."

A recent survey revealed that solar small businesses were refused loans primarily because the solar energy industry has no track record. In the eyes of the banking establishment it apparently represents unacceptable risks. In speaking to people involved with this loan program, we find that even the availability of guaranteed loans provides no assurance that banks will lend financial assistance to new solar small businesses: banks still hesitate to provide loans. Moreover,

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direct loans are much more attractive to solar small businesses because their interest rates are lower: about 7 to 8 percent as compared to 17 to 18 percent for regular business loans. Guaranteed loans alone simply do not provide the needed incentive to encourage solar small businesses.

Third, the Solar Lobby recommends that the Small Business Energy Loan Program be funded at a level of $25 million for direct loans and $45 million for guaranteed loans.

We base this recommendation on several factors. First, last year, small businesses demand for this program exceeded the loan program's funding.

$15 million dollars was allotted for direct loans in Fiscal Year 1980. The Small Business Energy Loan Program during the first quarter of FY-80, as well as during the year since it was implemented in January 1979, has been very well accepted by the public--perhaps too well.

Under this program, funds are allotted on a quarterly basis. Our research shows that in the first quarter of FY-80, the Small Business Administration approved all of the $3.75 million allotted within the first 30 days of the quarter. Numerous other loan applications on standby for the April allotment will undoubtedly be used on receipt, thus building up another standby list for July. In the first quarter, the SBA also approved $2 million in guaranteed energy loans. This backlog has not only frustrated applicants, but has also made the regional offices reluctant to publicize the program.

Second, there are waiting lists for this loan program already, and we are confident that small business demand for this program will continue to increase. As fossil fuels continue to rise in price, solar energy will look better and better as an alternative. To meet this demand, we must have a viable solar industry consisting in part of many small businesses.

Futhermore, action in Congress during the past weeks--such as the passage of tax incentives --will open the way to consumer financing. Long-term, low-interest loans

provided by the Solar and Conservation Bank are on the horizon. Therefore, the potential exists for a burgeoning solar market. This increased demand for solar, spurred by growing federal assistance, must be filled by a strong, competitive solar energy industry.

In conclusion, the Solar Lobby believes that the Small Business Energy Loan Program is a fitting step toward widespread and vigorous participation of small business in the solar field. We strongly believe the program deserves increased support. If you need any further assistance of information please notify us.

U.S. Metric Board

[The following statement from the Honorable Robert McClory, Member of Congress, was submitted to the Committee concerning the fiscal year 1981 budget request for the United States Metric Board:]

STATEMENT OF

THE HONORABLE ROBERT McCLORY
(R-13th, Illinois)

IN SUPPORT OF THE APPROPRIATIONS REQUEST
Of The
METRIC CONVERSION BOARD

Before The
SUBCOMMITTEE ON STATE, JUSTICE, COMMERCE, JUDICIARY
HOUSE APPROPRIATIONS COMMITTEE

APRIL 1, 1980

Mr. Chairman. First let me say I was saddened by Chairman John Slack's death. Few have served this House with such distinction and I know my colleagues will agree his leadership will be missed. Not only did we rely on his judgment as he brought this Committee's matters before the House, but we also relied on his sense of fairness to see that the wishes of a majority of the Members of this House were respected.

That is why I am here today, Mr. Chairman, to speak on behalf of the United States Metric Board's FY 1981 appropriation and to urge this Committee to adopt its request for an appropriation of $3.3 million.

If there were earlier questions concerning this country's national policy on the issue of metric conversion or what the Congress intended when we passed Public Law 94-168, it seems to me that it was settled last year. Not only has the Metric Board passed resolutions concurring with the Congressional viewpoint, but it has followed this Committee's instructions contained in House Report 96-247, to carry out GAO's recommendations.

The Metric Conversion Act was passed in 1975 by a vote of 300 to 67 and last year an overwhelming majority -- 280 to 122 -- supported the funding for this

Agency. Thus, it is clear that most Members of this House recognize that the metric system is slowly becoming more and more a reality in our daily lives, and it is both economically and politically wise to have this Agency actively at work serving our collective interests.

Let us now examine why the Metric Board must be granted these funds to carry out their mandate.

This Committee's desire for the Metric Board to better inform the American public of the voluntary nature of the Metric Conversion Act has provided substantial motivation for the Board to establish a program of bi-monthly public forums. During the past year these forums have been held in different cities throughout the country. The result of this initiative has been extremely helpful in allowing the public to air its views on the subject of metric conversion. The Board has found that the general public frequently is understandably confused as to what Congress intended when it passed this Act. The funds called for in the requested appropriation are necessary in order to expand these public forums and regional meeting schedules, as well as to carry out an enhanced program of public education and awareness.

In addition to the U. S. Metric Board's FY 1981 appropriation request to support a program of greater public awareness, there are other areas that deserve equal consideration.

Research is underway, as well as planned, to study the implication of metrication in such subject areas as workers' tools and training, the impact on businesses, procurement, the relationship of metric measurements to international trade, and other relevant subjects. If the Metric Board is to carry out Congress' intent that voluntary conversion occur in the most efficient, economically beneficial, and least disruptive manner, it is imperative to have

a "benchmark" on which to base future decisions. Moreover, it is essential for the Board to have not only the in-house ability and expertise to assist in the coordination of private sector metric conversion activities on a daily basis, but also it must have the legal staff necessary to avoid legal impediments which might hamper voluntary conversion efforts.

Mr. Chairman, it is generally recognized that metric conversion will occur in the private sector only when the benefits outweigh the costs. With this in mind and with events in the marketplace changing on a daily basis, it is obviously in this country's best interest to see that the Metric Board is properly funded, and in a position to cooperate and coordinate in the most effective and economic way possible. At the same time, Mr. Chairman, it is inaccurate to characterize the U. S. Metric Board's actions and activities as promoting metric conversion.

Also, it would misrepresent the Metric Board's function if it should assume a passive or virtually inactive role. The Comptroller General, Elmer Staats, concurs with this view, and testified to this effect before the House Science and Technology Subcommittee on Science, Research and Technology this past November 26, 1979.

The United States Metric Board is adhering to the letter and spirit of the law which we passed overwhelmingly in 1975 -- the Metric Conversion Act (P.L. 94-168). To fulfill its mission, however, it must have your support. I am convinced that an appropriation consistent with the Board's FY 1981 funding request will be an investment harmonizing and coordinating the interests, views, aspirations of all of the elements of our society, i.e., business, education, science and government. At the same time, we will be promoting our country's future standing in the world community of nations.

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BOARD FOR INTERNATIONAL BROADCASTING

[The following letter from the Joint Baltic American National Committee was submitted to the Committee concerning the fiscal year 1981 budget request for the Board for International Broadcasting:]

JOINT BALTIC AMERICAN NATIONAL COMMITTEE

REPRESENTING
ESTONIAN AMERICAN NATIONAL COUNCIL
AMERICAN LATVIAN ASSOCIATION, INC.
LITHUANIAN AMERICAN COUNCIL, INC.

March 17, 1980

Honorable John M. Slack, Chairman
Subcommittee on State, Justice,
Commerce and Judiciary
Committee on Appropriations
House of Representatives

Dear Mr. Chairman:

This is to express to you the full support of the Baltic American community for the proposed budget for Radio Free Europe/Radio Liberty which your Subcommittee will consider soon. At the same time, we feel that this budget, as past RFE/RL budgets, may not compensate enough for currency devaluation and inflation and may cause a further negative impact on the radios. It is our understanding that one recent fiscal measure entailed a severe cutback of RFE/RL free-lance operations, a service which had been valuable in obtaining the expert contributions of needed area specialists. This is one example of RFE/RL's decline.

We believe that there is presently an increasing awareness by many Members of Congress that RFE/RL should be strongly upgraded. The current situation in the Soviet-Asian areas underscores the role which a strong RFE/RL could be playing, and should have been playing had there been the foresight years ago, in broadcasting uncontrolled news and information to those areas. Defense spending is being greatly increased to counter Soviet moves. RFE/RL should be seen as an equally valuable, and much less expensive, instrument in this context.

It is our hope that you will join with those colleagues of yours who have called for a stronger RFE/RL. We do enclose two informative articles on the radios and we would be pleased to know your response.

Sincerely yours,

John B. Genys, Ph.D., Chairman and
Lithuanian American Council, Inc.

Maido Kari
Estonian American Natl. Council

Gunars Meierovics
American Latvian Association, Inc.

John Bolsteins
Director of Public Relations

Enclosures

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RADIO FREE EUROPE/RADIO LIBERTY

Since 1971 when Radio Free Europe and Radio Liberty became openly financed by the Congress, annual appropriations have never compensated fully for the devaluation of the dollar and the rising costs. Instead, annual budgets have included no less than $16 million for severance payments and termination of staff members as well as for all kinds of "money saving" reorganizations. In the last 7 years RFE/RL had to eliminate 726 employees, almost one-third of its manpower. Reduction of staff still continues. In the current fiscal year the Radios will have to eliminate another 51 positions. The inflow of fresh blood has been blocked while at the same time top talents have been encouraged by expensive incentives to leave before retirement age. Over the years reduction became, in effect, a program of gradual extinction. As a result of economy Radio Liberty lost half of its audience. The number of listeners in some Eastern European countries also declined substantially.

The operating budget requests have been cut every year, first by OMB and later by the Congress. The actions of OMB have resulted in crippling cuts over the last two successive years, FY-1980 and now FY-1981.

In 1980 OMB reduced the BIB request by $1,810,000 and the Congress further cut the request by $730,000. The overall reduction of $2,540,000 will have to be met by restricting operational program expenses, since more than 90% of total expenses are stable (salaries, rents, costs of power, etc.).

Last September RFE/RL had to borrow 6 million DM from the Deutsche Bank to make ends meet before the beginning of the new fiscal year. The money and interest had to be repaid from FY-1980 which will further reduce funds available for this fiscal year.

Requests for 1981 would make the level considerably lower than would be necessary to meet inflation increases as well as additional power and licensing costs required for any transmitters which would become operational during FY-1980 and FY-1981.

The BIB recommendation of $87,871,000 was reduced by OMB by $2,193,000 to $85,678,000. Modest requests of John Gronouski (the Chairman of BIB) to restore at least $569,000 were rejected. The amount approved by OMB includes, however, $4.5 million to finance the senseless and highly disruptive transfer of 40 to 60 people from Munich to Washington, D.C. Any estimated savings resulting from this new "savings measure" would be wiped out by inflation, four times higher in the U.S. than in Germany.

For fiscal reasons a highly inadequate request for 11 new transmitters of 250 KW each was sent to Congress and approved in 1978. With the addition of these transmitters, which will start to operate in 1980 and 1981, no less than one-fourth of the Soviet population would be out of the range of Radio Liberty broadcasts. In order to broadcast effective

signals to 67 million inhabitants of Central Asia and Kazakstan, western and eastern Siberia, and the Soviet Far East, another 14 transmitters would be required. In addition, eight existing 100 KW shortwave transmitters, as well as the mediumwave transmitter, became obsolete and have to be replaced. No research effort has been made so far to study the potential of satellite television and more effective technical means to overcome the jamming. There has been no exploration of better locations for new transmitters.

The decline of the Radios, both in terms of their power and program quality, remain in sharp contrast with the Soviet effort to expand their shortwave radios and propaganda effort targetted particularly at the critical areas such as Iran, Turkey, and the entire Middle East, as well as other countries of the Third World.

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