ESTONIAN INDEPENDENCE RECALLED IN WOODSTOCK, ILL., OBSERVANCE

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, February 21, 1972

Mr. McCLORY. Mr. Speaker, in paying tribute on the occasion of the 54th anniversary of Estonian Independence, I wish to commend those sturdy citizens of Estonian descent who honor the great heritage of their country and who continue to work and pray for liberation of families and friends who remain in the territory of occupied Estonia today.

Mr. Speaker, I had occasion to attend ceremonies sponsored by the Estonian Association of Northern Illinois, Inc. in Woodstock on Saturday evening, February 19. The event was organized by my friend Olaf Tammark, and he and his wife Marga developed a program of Estonian entertainment and cuisine, as well as appropriate remarks for the occasion. The keynote address was delivered by Vello Koger. Other Estonians participated actively in the proceedings, and it was a spirited and highly impressive evening in which all in attendance rededicated themselves to freedom and independence for Estonia.

Mr. Speaker, I would like to include my own remarks delivered to those gathered at Woodstock and to again express my support for the objectives of House Concurrent Resolution 416 passed by the Congress in 1966 urging self-determination and national independence for the peoples of Estonia, Latvia, and Lithuania. My remarks at Saturday night's meeting were as follows:

REMARKS OF CONGRESSMAN ROBERT McCLORY

It is especially good to have the opportunity to meet with leaders and members of the Estonian community in this celebration of the 54th Anniversary of Estonian independence.

I recall that February 24th is the precise date of your nation's independence from Russia which was decreed in 1918.

However, I am also aware that Estonia experienced a much longer history dating back a thousand years or more, and that Estonian independence includes liberation from the Poles, the Danes and the Germans, as well as the Soviets.

It has been my privilege to meet with you on several earlier occasions and I take this opportunity to salute you as a great people who cherish the highest qualities of citizenship. I salute you on your persistent quest for human freedom, for independence from all types of domination, suppression and absorption, and for the industry which you as a people have typified. I honor you for preserving the great traditions of your culture, your language, and your independence which you cherish and respect in a manner unsurpassed by any other people of the world.

While my review of events during the past year is not too encouraging, still, there is strong evidence that Estonian nationalism remains strong despite the persistent efforts of the Soviet Union to destroy or assimilate Estonia as a nation.

The Russian language is still about as unpopular in Estonia today as it was in 1940 when your nation was first occupied by the Soviets. The Estonian population continues to enjoy the highest standard of living of any of the area which has been occupied by the Soviets. In dress, in language, in free expression and in many subtle and effective ways, the Estonian character penetrates the veil of Soviet domination. While more than 30 years have passed since the Soviets overran Estonia by force, the people's will to be free appears to be as widespread now as it was at that time.

I am proud that our country continues to maintain a position which provides recognition and respect to free Estonia.

Just a few months ago, our President, by Executive Order, authorized the transfer of funds to support several Estonian officials in exile. While these individuals are quite elderly at this time, both Mr. Bahter and Mr. Raamot—the former Chairman and Treasurer of the Committee for a Free Estonia—are beneficiaries of this Executive Order issued by President Nixon in November, 1971.

In addition, I want to report another bit of good news. Just before leaving Washington, I was informed by the National Aeronautics and Space Administration that on the Apollo 16 flight to the moon—on April 16—our astronauts will carry with them the Estonian flag as well as other independent nations.

I know that this has been one of the objectives of the Committee for a Free Estonia, and I am pleased that our nation is taking this step in behalf of all the freedom-loving people of Estonian citizenship and descent, and in recognition of the fervent hope which we all have that Estonia will soon again be free.

PROPOSED PUBLIC ACCESS AMENDMENT TO H.R. 12931

HON. HENRY S. REUSS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, February 21, 1972

Mr. REUSS. Mr. Speaker, the bill H.R. 12931—Rural Development Act of 1972—was recently reported by the Committee on Agriculture and will be considered on the House floor later this week. At that time I shall offer an amendment to the bill which reads as follows:

Public access for the purpose of fishing, hunting, or other recreational use shall be provided or reserved at any reservoir constructed pursuant to the provisions of the Watershed Protection and Flood Prevention Act (68 Stat. 666), as amended, where the Secretary of the Interior determines that such reservoir has potential value for such use.

I urge my colleagues to support this amendment.

SENATE—*Tuesday, February 22, 1972*

The Senate met at 10:30 a.m. and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O Lord, our God, touch our minds with light, that having a right understanding, we may have wisdom, courage, and patience, working with Thy help for a better order of men and nations. Create in us a clearer insight, a just and true spirit. So temper our minds and emotions that we may be led to sound conclusions. Grant us mutual trust and good will. Lead us in the ways of peace and honor, in paths of truth and brotherhood until we are delivered from fear and hate into the love of Thy kingdom.

Be with all who serve the Nation here and with all who carry its message abroad.

And to Thee shall be all glory and praise. Amen.

DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. ELLENDER).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., February 22, 1972.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. JAMES B. ALLEN, a Senator from the State of Alabama, to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,
President pro tempore.

Mr. ALLEN thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, February 21, 1972, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

VITIATION OF ORDER RECOGNIZING SENATOR PEARSON TODAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order which the Senate granted on yesterday that the distinguished Senator from Kansas (Mr. PEARSON) be allowed to proceed for not to exceed 15 minutes today be vitiated.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION TODAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

FEDERAL RESERVE BANK BRANCH BUILDINGS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 601, S. 3197.

The ACTING PRESIDENT pro tempore. The clerk will please state the bill by title.

The assistant legislative clerk read the bill by title, as follows: A bill (S. 3197) to increase the dollar limitation on the cost for construction of Federal Reserve Bank branch buildings.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 3197

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the ninth paragraph of section 10 of the Federal Reserve Act, as amended (12 U.S.C. 522), is amended by striking out "$60,000,000" and inserting "$120,000,000".

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–633), explaining the purposes of the measure.

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

EXPLANATION OF BILL

Section 10 of the Federal Reserve Act in effect imposes a $60 million limit on construction of buildings for branches of the Federal Reserve banks. The committee bill would increase this limit by $60 million, to $120 million. The existing authorization is virtually exhausted, and new buildings are needed to permit the Reserve banks to perform their functions efficiently.

Federal Reserve branches perform functions important to the banking system and to the public, including particularly handling cash and checks. The use of branches by the Federal Reserve banks saves time and money in transporting cash and checks in addition to speeding up the operations of the commercial banking system.

As the economy grows, the workload of the Reserve banks also expands. While technological improvements in the method of handling many Federal Reserve operations have helped to stem the need for additional space, increases in the volume of operations have more than offset the savings. Some idea of the growth in the workload of Reserve bank branches is indicated by the volume increases in the following activities from 1961 through 1971:

Currency operations.—Increased from 1.5 billion items to 2.3 billion items, or 56 percent.

Coin operations.—Increased from 3.3 billion items to 6.3 billion items, or 90 percent.

Check collections.—Increased from 1.6 billion items to 3.3 billion items, or 106 percent.

The statutory limit on branch building construction applies to the cost of the building proper—that is, the cost of constructing, purchasing, or adding to buildings—but not to the cost of land, vaults, permanent equipment, furnishings, or fixtures. Branch building programs are subject to approval by the Board of Governors in Washington.

Based on current estimates, the increase in authorization of $60 million will allow for construction needed during the next 5-year period; that is, through 1977. The following is a tabulation of the estimated building proper costs of Federal Reserve branch building construction contemplated in the next 5 years:

Federal Reserve branch bank:	*Cost*
Pittsburgh	$2,000,000
Baltimore	20,000,000
Charlotte	9,000,000
Detroit	2,500,000
Louisville	1,000,000
Helena	2,000,000
Omaha	3,000,000
Los Angeles	18,000,000
Total	57,500,000

Appropriated funds are not used in constructing Federal Reserve buildings; the cost of construction is amortized out of the earnings of the Federal Reserve banks over a period of years.

The committee recommends favorable consideration on this bill by the Senate.

RADIO FREE EUROPE AND RADIO LIBERTY

Mr. SCOTT. Mr. President, the conferees on the authorization bill affecting Radio Free Europe and Radio Liberty, as I understand, have met only once. Today is the end of the continuing resolution for the funding of the program. I am informed that there are 3,200 people affected. They can probably be paid for about a week, and after that they will lose their jobs.

I think the Senate owes these employees of the Federal Government the right to have matters affecting their agencies adjudicated. I think the conferees ought to meet. I sincerely hope they will. Otherwise we ought to consider a continuing resolution. Editorials in both the New York Times and Washington Post favor the continuation of these agencies. Both the House and the Senate have indicated overwhelming support for them.

It would seem to me the conferees in the other body and in this body ought to meet promptly. I would hope they would meet today. I do not believe this is the proper way to legislate. I do not think, because a few Members of the Congress may not like the program, that we ought to override the authority provided by the Senate and the House of Representatives.

So I hope the conferees will get together and meet on this matter. That is why we established room EF–100, which is in the exact center of the Capitol, as the meeting place. That takes care of those who may have geographic pride. Nobody has to walk any farther than anybody else and no kowtowing is expected over one's action.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, there will be a period for the transaction of routine morning business, not to extend beyond 11:15, with speeches by Senators limited to 3 minutes.

Is there morning business to be transacted at this time?

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will please call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Maryland is recognized.

(The remarks Mr. MATHIAS made at this point on the introduction of S. 3205 are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

THE ACTING PRESIDENT pro tempore. Is there further morning business?

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. MANSFIELD. Mr. President, I move that the Senate stand in recess subject to the call of the Chair, but not beyond the hour of 11:15 a.m.

The motion was agreed to; and at 10:48 a.m. the Senate took a recess, subject to the call of the Chair.

The Senate reassembled at 11:01 a.m., when called to order by the Presiding Officer (Mr. EAGLETON).

BUSING OF SCHOOLCHILDREN

Mr. ALLEN. Mr. President, I was astounded to read this morning in the New York Times that the distinguished majority leaders (Mr. SCOTT and Mr. MANSFIELD) are proposing what is touted as a "compromise busing plan." Astounded—not so much because the proposal was made—but because it is not a compromise in any sense of the word. If we accept what is written about the proposal, it does not begin to face up to the fundamental problems involved.

Mr. President, I call to mind the Sermon on the Mount, where Jesus asked the rhetorical question as recorded in the seventh chapter of Saint Matthew, starting with verse 9:

> Or what man is there of you, whom if his son ask bread, will he give him a stone?
> Or if he ask a fish, will he give him a serpent?

Mr. President, the country is clamoring for antibusing legislation, this so-called compromise is a probusing amendment. Far from being an antibusing amendment, it will freeze busing as a remedy or as a means for use by the Federal courts as part of the statutory law of the land.

Mr. President, this so-called compromise nullifies the antibusing amendments passed by the House of Representatives after long and searching debate. In fact, it is proposed that we freeze busing into all desegregation schemes as may be imposed not only in the South, but also in other sections of the Nation. It is a known fact that Federal courts have found State action to be a factor in current residential patterns and the racial composition of schools serving residential areas in all areas of the Nation. This proposal would accept and establish forced busing as a matter of public policy and this is precisely what opponents of massive forced busing from all sections of the Nation are undertaking to avoid.

Mr. President, the Washington Post on Monday, February 21, 1972, quotes from an interview with the distinguished Senator from Pennsylvania (Mr. SCOTT), published in the U.S. News & World Report, in which he predicts that Congress "will waffle on the busing issue." I do not know precisely what the distinguished Senator had in mind in using the word "waffling," but judging from past successes he has had in scuttling legislative proposals to prevent massive crosstown busing, I cannot avoid the conclusion that the effort is being made to play games with the American people on this vitally important issue. But be that as it may, I have said that this so-called compromise does not, in any sense, address itself to the basic problems involved.

Mr. President, the telltale phrase in the interview with the distinguished Senator from Pennsylvania (Mr. SCOTT) are the words contained in the amendment which say more or less that the Department of HEW could not demand busing except as constitutionally required.

Well, Mr. President, that is a first cousin to the phrase with which the distinguished Senator from Pennsylvania has scuttled legislation or proposed legislation in the past that would have sought to put an end to massive forced busing.

Every Senators recalls that the distinguished Senator from Pennsylvania inserted the phrase, "except as provided by the Constitution" to the language of a certain amendment, because the Department of HEW said that with the use of those words they would be able to go ahead with their busing plans. Such a proposal is a most cynical one that would actually authorize busing at the same time portending to put some limits on the use of busing to force racial balance in the public schools.

In a nutshell, as I pointed out yesterday on the introduction of Senate Joint Resolution 207, the Supreme Court admits that racial balance is not required by the Constitution. At the same time, Congress has specifically excluded racial balance in its definition of desegregation. Yet U.S. district court judges continue to issue orders requiring racial balance and massive forced busing as a means of achieving that end.

So this so-called compromise amendment would place into the hands of the courts continued use of the very practice the country wants stopped. Forced busing will be the No. 1 issue in the next presidential campaign.

I have noticed, since I came to the Senate, that ofttimes it will be alleged a compromise is being offered in settlement of a legislative debate that is going on in the Senate, but the compromise is all on one side, and it has not been agreed to by anyone.

So, this is no compromise. I serve notice, right here and now, that such a pro-busing amendment will not be adopted without a concerted fight here on the Senate floor, because it does not abolish busing, it is not an anti-busing amendment but a pro-busing amendment—just the opposite of what the country is demanding.

Mr. President, the U.S. Supreme Court has approved of both the ends and the means by the process of weird reasoning that U.S. district courts may order racial balance and busing to achieve racial balance in the exercise of broad discretionary equity powers of Federal courts. Yet, this scuttling compromise provides that the Department of Health, Education, and Welfare could demand busing so long as the busing scheme conformed with court decisions. In this connection, this provision in the Scott-Mansfield proposal would replace a much more effective amendment, sponsored by Representative EDITH GREEN, designed "to prohibit all Federal agencies from urging, persuading, inducing or requiring school districts to use their own or State funds for busing to achieve desegregation."

Mr. President, in conclusion, this proposed compromise would do nothing constructive but would vest the Department of Health, Education, and Welfare with powers of a czar over every public school system in the United States of America. I make this broad statement for the reason that "State Action" is involved in drawing the school district boundaries of every school district in the United States. U.S. district court judges, under existing precedents, may continue to issue racial balance decisions and may continue to require massive busing and cross busing to achieve racial balance in the schools.

There is no stronger argument for a constitutional amendment than evidence presented of a concerted effort to "waffle," "pussyfoot," and "suttle" every legislative effort made to return some semblance of sanity, of commonsense reasoning, to this massive, disruptive, and divisive business of U.S. district court judges' playing God with the children of parents of the United States.

I am firmly convinced that the American people are fed up with efforts to avoid and evade the issued presented. The coercive power of Federal Government is being employed to disallow the rights of parents and schoolchildren and local school officials and State governments to determine questions which vitally affect the health, safety, and welfare of public school children. This abuse of power must be remedied. The people will not sit idly by and watch games being played with this important issue.

Mr. President, I predict that the American people are preparing a political scaffold which may be used to abruptly end the political careers of those who duck and dodge and waffle on this issue.

I ask unanimous consent that the articles published in the New York Times of Tuesday, February 22, 1972, and the Washington Post of Monday, February 21, 1972, to which I have referred, be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

SENATE'S LEADERS DESIGN COMPROMISE BUSING PLAN—SCOTT-MANSFIELD PROPOSAL WOULD ALLOW SOME TRANSPORTING OF PUPILS BUT PUT CONSTRAINTS ON AGENCIES AND COURTS

(By John W. Finney)

WASHINGTON, February 21.—Senate leaders have drafted a bipartisan legislative amendment designed to offset the growing pressure for a constitutional amendment that would prohibit busing to achieve racial balance in schools.

In line with recent Federal court decisions, the legislative amendment would permit busing as one way to overcome officially imposed school segregation. At the same time, it would seek to place policy constraints on the courts and Federal agencies in using busing to achieve racial balance in the schools.

The amendment is expected to be offered by the Republican leader, Hugh Scott, and the Democratic leader, Mike Mansfield, when the Senate takes up a Federal aid to education bill, probably later this week.

The education bill, a substitute for legislation passed last year by the House, would provide $700-million annually in Federal aid to colleges and universities and $1.5-billion in emergency aid to help schools that are desegregating.

The latter section of the bill is expected to provide the battleground for a heated debate over school busing, including attempts to attach amendments that would prohibit the use of Federal funds for busing to achieve school desegregation.

Senator Scott, who has taken the initiative in drafting the amendment, makes it clear that his purpose is to offer a compromise that a broad majority in the Senate can support and in the process to offset the pressures for a legislative or constitutional restriction on school busing.

Senator Scott is moving somewhat independently of the White House, which is still holding out the possibility that President Nixon, as a result of a current Cabinet-level study of the school busing issue, will recommend a constitutional amendment.

A senior White House official said Saturday that Mr. Nixon was "very strongly interested" in a constitutional amendment despite the misgivings of some of his aides and Cabinet officers. The President was said to regard such an amendment as a "live option" in his search for a way to defuse an issue that he regards as dangerous and divisive.

ADOPTION CALLED LIKELY

Adoption of the Scott-Mansfield amendment is regarded as likely since the proposal carries the joint endorsement of the leaders. If it passes, Senator Scott predicted in an interview, the pressure for a constitutional amendment "will fade away except as it serves the purposes of those who want to keep it alive."

Senators Mansfield and Scott are united in their opposition to any constitutional amendment. Noting that any constitutional amendment would face prolonged debate and probably could not command the necessary two-thirds vote in the Senate, Senator Mansfield said such an amendment, "instead of facing up to the situation, would let it deteriorate through avoidance and postponement."

Senator Scott said it would be "almost impossible" to draft a constitutional amendment on school busing that "does not tear pieces" out of the 14th Amendment or in effect reverse the 1954 Supreme Court decision on school desegregation.

ENFORCEMENT GUIDELINES

The Scott-Mansfield proposal would deal both with the use of Federal funds for busing and with the enforcement guidelines to be followed by the courts and Federal agencies in particular the Department of Health, Education and Welfare, in moving against school segregation.

The amendment would prohibit the use of Federal funds for busing unless requested by a school district that was carrying out a court-ordered or a voluntary desegregation plan.

That would reverse a provision in the House-passed bill, sponsored by Representative John M. Ashbrook, Republican of Ohio, that would prohibit the use of any Federal funds for busing to achieve racial desegregation. At the same time, as interpreted by its

drafters, the Senate language would preserve the principle of local control over the use of funds for busing.

The language would also give legislative endorsement to a recent line of court decisions, culminating in the Supreme Court decision last April involving Mecklenberg County and the City of Charlotte, N.C., holding that busing is "one tool of school desegregation" that the local authorities may be required to use.

At the same time, the Scott-Mansfield amendment would prohibit any Federal agency from requiring or demanding that busing be carried out purely to achieve racial balance in schools. It would also provide that the Department of Health, Education and Welfare could not demand busing "except as constitutionally required"—a phrase that would permit the department to proceed with busing plans so long as they conformed with court decisions.

This section in the Scott-Mansfield amendment would replace a much stricter House amendment, sponsored by Representative Edith Green, Democrat of Oregon, that would prohibit all Federal agencies from "urging, persuading, inducing or requiring" school districts to use their own or state funds for busing to use their own or state funds for busing to achieve desegregation.

As explained by its drafters, the general purpose of the Scott-Mansfield amendment is to impress upon the Department of Health, Education and Welfare and the courts—as they interpret how the emergency desegregation funds are to be used—that Congress accepts the use of busing as a remedy of last resort to overcome officially imposed segregation but looks with disfavor upon the broader use of busing to achieve racial balance in schools.

CONGRESS TO WAFFLE BUSING, SCOTT SAYS

Senate Republican Leader Hugh Scott says Congress probably will not pass an antibusing constitutional amendment and will avoid a real showdown on that thorny issue in this election year.

The busing issue moves to the Senate floor this week.

Scott, in a copyrighted interview in U.S. News & World Report, was asked if Congress "will waffle on the busing issue."

He answered, "Yes, sir, I'm saying just that. It is partly because congressmen are uncertain what the will of the people is.

"Another reason is that they see forces in Congress in the process of realignment. I cite the 'turning tail' of all the white Democratic congressmen from Michigan in abandoning their two black colleagues in that state on the busing issue. This has shocked the liberals but it is a fact of life."

Scott's assessment that Congress will be able to "waffle" on the issue conflicts with that of at least one congressional sponsor of the antibusing amendment, Rep. Tom Steed (D-Okla.). He has said, "The House will be forced to make a decision this year. The voters are going to make us face it. They are not going to let anybody come back here who hasn't been smoked out on this issue."

Led by Sen. Sam J. Ervin Jr. (D-N.C.), Southern senators plan to press for a vote on their amendment to the higher education bill to bar school districts from busing to alter racial composition. Antibusing moderates from both parties may seek to replace the Ervin amendment with a less binding proposal.

Busing has become a major issue in the Florida primary. Alabama Gov. George C. Wallace has been drawing large crowds and enthusiastic responses with antibusing remarks.

Scott said he thought Congress probably would vote funds for court-ordered busing to bring about racial balance in schools but was unlikely to go much further.

"In the end, I think money for court-ordered busing will be approved," Scott said, "but, to put it bluntly, Congress is going to avoid final clarification of this controversy in 1972, simply because this is an election year."

Mr. ERVIN. Mr. President, I want to forewarn those who seek by legislative tyranny, which is permissible under the Senate rules, to forestall those of us who want to have the right to attack directly by amendments the proposed Scott amendment, that the rules of the Senate permit us to offer substitutes for every Senate bill that comes before the Senate which will strike out all after the enacting clause and enable us to get to a direct vote on the question of whether the schoolchildren of America are going to be subjected to the kind of bureaucratic and judicial tyranny that they are being subjected to in my State and in many other States of the Union at the moment.

Personally, I consider that restoring the freedom of little children and their parents is the most important issue confronting the American people at this moment. And I will adopt every means the rules permit to see to it that this issue is presented squarely to the Senate under the circumstances so that the Senate can work its will free from legislative tyranny. Furthermore, I will say that as a result of our experience in this field, I will never again agree to any unanimous consent request to place time limitations on any piece of legislation in which I have a substantial interest.

The Constitution of the United States declares in its Preamble that the Constitution is ordained and establish to secure the blessings of liberties for Americans of all generations. The schoolchildren in America today are being subjected to the worst form of tyranny in being denied the right to attend their neighborhood schools and in their being bused to and from vast distances, not for the purpose of enlightening their minds, but merely for the purpose of integrating their bodies.

I say that the American people are entitled to a direct vote on this issue, and as far as it lies within my power, I will continue to fight for their rights to have a direct vote until the end of this session of the Senate and, if the Good Lord spares me, I will take up the fight again at the beginning of the next session.

The PRESIDING OFFICER. The time of the Senator has expired Is there further morning business?

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. ALLEN):

A resolution of the General Assembly of the State of Rhode Island; to the Committee on Foreign Relations:

"RESOLUTION MEMORIALIZING CONGRESS AND THE PRESIDENT OF THE UNITED STATES TO TAKE WHATEVER STEPS IN THEIR POWER TO BRING ABOUT RECONCILIATION AND PEACE IN IRELAND

"Whereas, In recent months and especially in the last few days, the world has witnessed the consummate tragedy born of hatred and violent despair in Northern Ireland; and

"Whereas, All of Ireland is moving swiftly and almost irrevocably toward massive civil war and carnage while British troops purportedly guard the peace in Ulster; and

"Whereas, Catholics in Northern Ireland are being interned in camps because they continue to wage their struggle for the freedom and equality inherent in the right of self-determination; and

"Whereas, The issue in Northern Ireland is human dignity—the basic human right due to all men and one that men throughout history have been willing to relinquish their lives to possess; and

"Whereas, Until the minority enjoys equal rights with the majority, since equality and justice are the only true instruments men possess to eradicate fear and mistrust, the handmaidens of violence and terror, peace will be alien to Ireland; and

"Whereas, The true answer may lie in a unified Ireland in which Catholics and Protestants work together to create a new Ireland—a country in which all men by having full and mutual respect for each other come together and tenaciously guard their hard fought peace, now therefore be it

"Resolved, That the congress and the President of the United States be and hereby are respectfully requested to take whatever steps in their power to bring about reconciliation and peace in Ireland; and be it further

"Resolved, That the secretary of state be and he hereby is authorized and directed to transmit a duly certified copy of this resolution to the congress, the President, and the delegation from Rhode Island in congress."

INTERIM REPORT OF ACTIVITIES OF THE PRIVATE WELFARE AND PENSION PLAN STUDY, 1971—REPORT OF A COMMITTEE (S. REPT. NO. 92-634)

Mr. WILLIAMS, from the Committee on Labor and Public Welfare, pursuant to Senate Resolution 35, 92d Congress, first session, submitted a report entitled "Interim Report of Activities of the Private Welfare and Pension Plan Study, 1971," together with additional views, which was ordered to be printed.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. MATHIAS (for himself, Mr. BEALL, Mr. CHURCH, and Mr. HUMPHREY):

S. 3205. A bill to amend the Act of April 9, 1966, so as to provide for the acquisition of Oxon Hill Manor for use as the official residence for the Vice President of the United States. Referred to the Committee on Public Works.

By Mr. BOGGS:

S. 3206. A bill to amend chapter 15 of title 38, United States Code, to provide for the payment of a higher rate of pension to the widows and children of certain veterans who at the time of death were totally and permanently disabled as the result of service-connected disabilities. Referred to the Committee on Veterans' Affairs.

By Mr. HUMPHREY:

S. 3207. A bill to provide financial assistance to the States for the development and carrying out of programs to improve the environment, and for other purposes. Referred to the Committee on Finance.

S. 3208. A bill to provide for the Establishment of an Older Workers Conservation Corps, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. HARTKE:

S. 3209. A bill to provide for a study of the feasibility and desirability of establishing a proposed Ohio River National Parkway in the State of Indiana, and for other purposes. Re-

ferred to the Committee on Interior and Insular Affairs.

By Mr. HARTKE (for himself and Mr. CRANSTON):

S. 3210. A bill to amend the Public Health Service Act to provide assistance to certain non-Federal institutions, agencies, and organizations for the establishment and operation of cooperative community programs for patients with kidney disease for the conduct of training related to such programs, and to provide financial assistance to individuals suffering from chronic kidney disease who are unable to pay the costs of necessary treatment. Referred to the Committee on Labor and Public Welfare.

By Mr. COOPER:

S. 3211. A bill for the relief of William H. T. Carney. Referred to the Committee on the Judiciary.

By Mr. GAMBRELL:

S. 3212. A bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 to allow, in the case of certain States, an exemption from the effective date of such act. Referred to the Committee on Government Operations.

By Mr. COOK:

S. 3213. A bill to provide for the establishment of a National Cemetery in the locality of Fort Knox, Ky. Referred to the Committee on Veterans' Affairs.

By Mr. BYRD of West Virginia (for Mr. BIBLE):

S. 3214. A bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. Referred to the Committee on Government Operations.

By Mr. PROXMIRE:

S. 3215. A bill to expand the market for municipal securities, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs, by unanimous consent.

By Mr. RANDOLPH:

S. 3216. A bill authorizing the change in name of certain water resource projects under the jurisdiction of the Department of the Army. Referred to the Committee on Public Works.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MATHIAS (for himself, Mr. BEALL, Mr. CHURCH, and Mr. HUMPHREY):

S. 3205. A bill to amend the Act of April 9, 1966, so as to provide for the acquisition of Oxon Hill Manor for use as the official residence for the Vice President of the United States. Referred to the Committee on Public Works.

ESTABLISHMENT OF AN OFFICIAL RESIDENCE FOR THE VICE PRESIDENT

Mr. MATHIAS. Mr. President, I send to the desk a bill of some importance dealing with the proper discharge of the duties of the Vice President of the United States. I am happy to say that this measure is cosponsored by a man who knows what it is to be Vice President, the junior Senator from Minnesota (Mr. HUMPHREY). It is also cosponsored by my distinguished colleague from Maryland (Mr. BEALL), and by the distinguished Senator from Idaho (Mr. CHURCH). It is therefore a bill which is precisely bipartisan.

This is a good time to introduce a bill dealing with preparing the office of the Vice Presidency for a more efficient and more effective operation, because we are in an election year. The plans which are contemplated in the bill could be put into execution in time for the next occupant of the office of Vice President, whoever that may be, and the bill is thus, I think, so timed as to favor no particular individual, but to provide a proper setting for the office of the Vice President.

We have all seen, in the nearly two centuries of the existence of the Republic, how the Office of the Presidency has evolved, and how Presidents today are expected and required to perform duties which the Founders of the Republic never dreamed would even exist. If this is true of the Presidency, it is also true of the Vice Presidency; and modern Vice Presidents, if they are properly to perform the functions of the office in the 20th century context, must do more than simply discharge the constitutional function of presiding over the Senate. Vice Presidents, in the modern context, sit as Members of the Cabinet, or at least with the Cabinet. They preside over various Government agencies and committees. They have a constant personal responsibility to be acquainted with what is going on throughout the Government. They have what is certainly a highly desirable function of assisting the President with the ceremonial duties of the Chief Executive, and in making the acquaintance of statesmen around the world with whom a President must do business.

It is with this latter function that this bill particularly deals, because it contemplates providing an official residence for the Vice President. It suggests the purchase by the Government of an existing house, built some years ago by the late Under Secretary of State Sumner Welles, which is conveniently located on the southern edge of the city overlooking the Potomac River. Such a location would permit the Vice President to come to the Capitol or to get to the White House or Andrews Air Force Base, for example, in a matter of a very few minutes, and would make it convenient for him to relieve the President of some of the onerous chores and ceremonial burdens of the Office of President, thereby making it possible for the President to devote himself more completely to the substantive problems of Government with which he is charged.

The property has been inspected by the Secret Service and by the Department of the Interior. All those who have seen it feel that it would be highly suitable as a residence for the Vice President. I am hopeful, Mr. President, that the Senate will give early consideration to this question of making the second ranking officer in the executive branch better equipped to more effectively discharge the duties of his office that we expect him to perform. I would submit that we have been unfair to Vice Presidents in modern times in not providing them with equipment for the job. This is our opportunity. I think this is the time to act. We are in, as I have stated, a year in which this cannot be said to be accruing to the advantage of any single individual, but simply to the advantage of the office. The opportunity is here because the property is available, which may not be the case at another time.

At long last, there is a prospect that the Vice President will be accorded an official residence. In April, 1966, Congress enacted a law making provisions for such a residence. The specific plans called for the construction of a new residence on the grounds of the Naval Observatory. For a number of reasons, these plans were never carried out.

Now, my distinguished colleagues, Senator BEALL, Senator HUMPHREY, and Senator CHURCH have joined me in sponsoring a bill to amend S. 2394 (Public Law 89–386) providing for the purchase of the stately Oxon Hill Manor. This house, with some 95 acres surrounding it, overlooks the Potomac River just southeast of Washington and is only a 10- to 15-minute drive from the Capitol and the White House. Similarly, it is only 10 minutes from Andrews Air Force Base, the terminal used by the Vice President for his official travel.

Oxon Hill Manor is a large and very attractive residence with adequate facilities for entertaining visiting dignitaries and for every sort of state function. It also has a distinguished history. The land was acquired by a prominent Maryland family in 1685. John Hanson, the first President of the United States under the Articles of Confederation, died there and it is said that he is buried on the manor. More recently the property belonged to the late Sumner Welles.

One of the paradoxes of our democratic system is that our President is burdened not only with the responsibilities of the head of Government but also with those falling to the head of state. I can think of no other major country in the world in which either head of state or head of government is obliged to accept this dual burden. In the United States, because of its position of leadership in the West, this burden falls particularly heavily.

And, thus, it seems doubly imperative that the Vice President should help in extending the hand of hospitality for state occasions and informal discussion, as well. Clearly, this has proved impossible without a suitable residence to permit such a role.

Mr. President, the Washington Post carried an article on February 13 on this proposal. I ask unanimous consent to have the article printed in the RECORD at this point, together with a copy of Public Law 89–386, and my bill.

I hope, Mr. President, that the matter will receive early and favorable attention.

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

[From the Washington Post, Feb. 13, 1972]

MANOR FOR THE VEEP?

(By Maxine Cheshire)

Oxon Hill Manor, a classical Georgian mansion overlooking the Potomac River and less than 10 minutes from Capitol Hill will, be proposed to Congress next week as an official vice-presidential residence.

Maryland's Sens. Charles McC. Mathias and J. Glenn Beall will introduce legislation "to provide for the acquisition" of the historic Prince George's County estate as a home for the nation's No. 2 officeholder.

At the same time on the House side, Rep. Lawrence J. Hogan (R-Md.), will introduce a companion bill.

The property, once the home of Under Secretary of State Sumner Welles in the New Deal days, has special significance for many historians and scholars.

The grounds, almost within sight of Mount Vernon, are believed to be the burial place

of John Hanson, who preceded George Washington as the first President of the United States under the Articles of Confederation.

Mathias and Beall, who have been quietly lobbying in advance for their proposal, are thus far encouraged by the favorable response of their Senate colleagues and key members of the Nixon administration.

Vice President Spiro T. Agnew, also from Maryland, does not wish to appear to be house-hunting for himself. But he has indicated that he would not stand in the way of those who consider the place appropriate for others who come after him.

Former Vice President Hubert Humphrey, whose own staff once coveted Oxon Hill Manor when the Government first started looking for an official residence in the 1960s, is enthusiastically behind the bill.

Further support has come also from still another Marylander, Interior Secretary Rogers Morton. He was so impressed with Oxon Hill Manor's suitability that he had the National Park Service work up an evaluation that Congress should find very persuasive.

The National Park Service's Office of Archeology and Historic Preservation has concluded in a two-volume report that Oxon Hill Manor is something "very special" and "meets all the requirements necessary for the official residence of a high official such as the Vice President of the United States of America."

The report concedes that there may be those who feel that the Vice President's home should be located inside the District of Columbia. But all other features of site and location are regarded as "highly desirable."

Deer roam the woods, yet Oxon Hill Manor is only 7.4 miles from the White House and 6.4 miles from Andrews Air Force Base, which is used by vice-presidential aircraft.

There is enough acreage (55 to 158 acres) available to satisfy the Secret Service's security requirements and permit both a helicopter landing pad and anchorage for a boat on the river frontage.

Oxon Hill Manor has been occupied since 1952 by Fred N. Maloof, a self-made millionaire of Lebanese ancestry who got rich in oil and land speculation. He bought the property from Welles.

A connoisseur of art and antiques and historic memorabilia, Maloof maintains his unusual collection for visitors as "The John Hanson Memorial Museum."

But he hasn't owned the property since 1967, when he sold it to Johnson administration insider Howard Burris, who tried unsuccessfully to develop an educational Disneyland there.

International Capital Corp. and Financial Realty Corp. now hold title to the main 55 acres and the house. The remaining 92 acres are owned by shopping center developers from Hampton, Va.

Congress has long been in favor of some kind of vice-presidential residence, but no one has ever been able to come up with a suggestion with enough support to get money from the Appropriations Committee.

In 1966, Congress passed a bill authorizing $750,000 for "planning, design, construction, furnishing and maintenance."

But that official vice-presidential house was supposed to be built on the Naval Observatory grounds on Massachusetts Avenue, and certain admirals were just as happy that no one on the Hill ever cared enough to follow up on that idea.

Mathias' and Beall's upcoming bill was drafted in the form of an amendment to the earlier legislation.

The new proposal would merely change the wording of what is already on the books as Public Law 89-386 and will read:

". . . the Administrator of the General Services is authorized and directed to acquire, by purchase or otherwise, the property known as Oxon Hill Manor . . . together with a suitable portion of the grounds surrounding it."

The new bill asks for an appropriation of $1.5 million to the General Services Administration "for the acquisition and initial repair and improvement . . . including the cost of initial furnishings."

If there is any opposition to the amendment, money will probably be the issue. Some members of Congress may object to the Maryland location, but more are apt to be stingy about an expenditure that not everyone considers vital.

Oxon Hill Manor can be bought with varying amounts of acreage. The minimum recommended in the National Park Service's report is a 55-acre parcel that contains a 49-room mansion, formal boxwood gardens, a swimming pool, stables, a five-car garage, a greenhouse and a six-room manager's cottage.

The asking price for that portion is a negotiable $1 million.

The Park Service, however, is hoping that Congress will consider purchasing an additional 92.73 acres next door as a "buffer" that could also be available for "limited recreational use" and "public access to the waterfront."

The history of Oxon Hill Manor dates to 1685, when a member of Maryland's prominent Addison family acquired the land from Lord Baltimore.

The first Oxon Hill Manor house, built in 1710, survived until it was destroyed by fire in 1895.

It was in this early house that John Hanson, a visitor, died in 1783. Many written records indicate that he was buried there, either in the family cemetery or in the remains of what appears to be a mausoleum.

Hanson has a cult of followers among history buffs who feel he has been overlooked among our founding fathers and would like to see the present-day Oxon Hill Manor become a memorial to him.

The brick house that stands there today was built for Sumner Welles in 1929 by Washington architect Jules H. de Sibour, who also designed the Chevy Chase Country Club.

The style is an 18th-century English country house, with elegant rooms grandly scaled for formal entertaining.

A 26-by-31-foot entrance hall is floored with black-and-white marble. A 26-by-45-foot drawing room and a paneled Charles Dickens library open into each other and out onto verandas with a view of the Potomac.

The dining room will seat 24 at one long, table, and perhaps three times that many at smaller tables.

The antique Regency wallpaper has a history which researchers may or may not be able to confirm. Supposedly, an emperor of China gave the eight large panels to Queen Victoria as a gift.

The main part of the house has six large "bed chambers," each with its own bathroom and fireplace.

The service wing is three stories high, 79 feet long and contains a wine cellar, incinerator, sewing rooms, linen closets, silver safe, a flower room, eight rooms for female servants and four rooms for male servants.

The place is not air conditioned, but the steel-beam, slate-roof construction is "first-class" and the condition is "sound."

"Refurbishing," according to the Park Service, "would involve more cleaning and painting than repairs."

Even the swimming pool (25-by-75 feet) is in good condition, but it needs a filtering system.

[Public Law 89-386, 89th Congress, S. 2394, April 9, 1966]

An Act authorizing the planning, design, construction, furnishing, and maintenance of an official residence for the Vice President of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Administrator of General Services is hereby authorized to plan, design, and construct an official residence for the Vice President of the United States in the District of Columbia.

SEC. 2. The Administrator is further authorized to use as a site for such residence Federal land and property comprising approximately ten acres at the United States Naval Observatory, the specific area and boundaries thereof to be determined jointly by the General Services Administration and the Department of the Navy: *Provided,* That any roads and improvements thereon for which there is a continued need may be relocated and reconstructed.

SEC. 3. The Administrator is further authorized to provide for the care, maintenance, repair, improvement, alteration, and furnishing of the official residence and grounds, including heating, lighting, and air conditioning, which services shall be provided at the expense of the United States.

SEC. 4. The Administrator of General Services is further authorized to accept cash gifts, furniture, and furnishings and other types of gifts on behalf of the United States for use in constructing and furnishing the official residence but without further conditions on use, all such articles thus given to become the property of the United States.

SEC. 5. There is authorized to be appropriated to the General Services Administration, the sum of $750,000 for planning, design, construction, and costs incidental thereto, including the cost of initial furnishings.

SEC. 6. There is further authorized to be appropriated to the General Services Administration, annually, such amounts as may be necessary to carry out the purposes of section 3.

S. 3205

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act authorizing the planning, design, construction, furnishing, and maintenance of an official residence for the Vice President of the United States", approved April 9, 1966 (Public Law 89-386), is amended by striking out the first two sections and inserting in lieu thereof the following:

"That the Administrator of General Services is authorized and directed to acquire, by purchase or otherwise, the property known as Oxon Hill Manor, situated in Prince Georges County, Maryland, together with a suitable portion of the grounds surrounding it.

"SEC. 2. Upon acquisition of Oxon Hill Manor, the Administrator is further authorized and directed to make necessary and proper repairs and improvements thereto. Upon completion of such repairs and improvements, Oxon Hill Manor shall be the official residence of the Vice President of the United States."

Mr. BEALL. Mr. President, I rise today to decry a continuing neglect on the part of this country, and to propose a solution to a situation too long overlooked. I refer to the lack of a suitable official residence for the second highest officeholder in the land—the Vice President of the United States. All of us acknowledge that the demands upon public officials have increased dramatically. This is particularly true of the Vice President. No longer is one doomed to oblivion in the job. On the contrary, the Vice President occupies a unique and extremely important vantage point in our system. With the demands upon the Chief Executive's time, the Vice President has taken a place of immense policymaking responsibility in numerous areas. In addition, he serves as the President's per-

sonal representative both in governmental and social areas. An official residence for the Vice President would allow him to better undertake the myriad social obligations of his office and even possibly free the President to better allot his time in this necessary, if time-consuming, function.

Many sites have been suggested for this residence, but none so suitably meets the requirements as does the Oxon Hill Manor, a classical Georgian mansion less than 10 minutes from Capitol Hill. Nestled upon a high escarpment overlooking the Potomac, affording a breathtaking view of the river 180 feet below, Oxon Hill Manor boasts of facilities that both remind one of our colonial past and serves well as an elegant contemporary home. The manor house, built in 1929, contains 49 rooms and would provide a private home for the Vice President, and a public home, similar to the White House, for all our citizens to admire. In short, Oxon Hill Manor serves as an unexcelled link between a historic past and a promising future.

The history of this site dates back to 1685, when a member of Maryland's prominent Addison family acquired the land from Lord Baltimore. The first manor was built in 1710 and survived until 1895, when it was destroyed by fire.

It was here in the fall of 1783, that John Hanson came to visit his nephews at Oxon Hill Manor. My colleagues will recall that I have introduced legislation last spring to recognize this great patriot's birthday of April 14th as John Hanson Day. Although other men had served as presiding officers of the Continental Congress, John Hanson assumed office under rather unique circumstances. He became President just as America won her struggle for independence. Hanson died there on November 15. Many records indicate that he was buried at Oxon Hill rather than at his Frederick, Md., home. Thus, enactment of Oxon Hill Manor as the official residence of the Vice President would also serve the dual purpose of recognizing an often overlooked Founding Father.

The imposing home that stands today was built for Sumner Welles, later Franklin D. Roosevelt's Under Secretary of State. The style is an 18th century English country house, with magnificent rooms designed for the large-scale entertaining that such a high Government official would need, and lacks, today.

Although Oxon Hill Manor is an historic and venerated home, it will serve the needs of the modern Vice President admirably. The National Park Services Office of Archeology calls the site "very special" and "meets all the requirements necessary for the official residence of a high official such as the Vice President of the United States of America." Even though wildlife abound on the estate, the manor is only 7 miles from the White House and 6 from Andrews Air Force Base. The availability of up to 158 acres would satisfy security needs and permit both a helicopter landing pad and anchorage for a boat on the river frontage.

Mr. President, Oxon Hill Manor would serve as an elegant and utilitarian home for our Vice President, while at the same time symbolizing our historic past. I would hope that the buildings and grounds could be opened to the public, in the manner of the White House, so that all Americans could take pride in its beauty and charm. Oxon Hill Manor would be a most needed addition to our national heritage, one in which we can take just pride. I therefore urge its purchase.

By Mr. BOGGS:

S. 3206. A bill to amend chapter 15 of title 38, United States Code, to provide for the payment of a higher rate of pension to the widows and children of certain veterans who at the time of death were totally and permanently disabled as the result of service-connected disabilities. Referred to the Committee on Veterans' Affairs.

Mr. BOGGS. Mr. President, I am introducing today for reference to the appropriate committee legislation which would remove an inequity from our veterans' benefit laws. This bill would raise the survivors' pension for the widows and children of veterans who have been totally and permanently disabled as a result of a service-connected disability, to the extent that he has been eligible to receive aid and attendance payments for 10 years or more, if he should die from causes unrelated to his disability.

Under current law, the families of veterans who die from causes unrelated to their service-connected disability receive a pension at a rate which is substantially lower than if the cause of death were attributed to a service-connected disability. In general, this lower rate is justified since in most cases the disability is not severe enough to prevent a veteran from working to provide for his family's financial security if he should die. Moreover, his wife may also pursue a career which would enable her to support herself and her children after his death.

But in the case of a veteran who is totally and permanently disabled and who requires constant care and attention at home, neither he nor his wife is free to work and provide for the future. If the wife does work, her salary must be used to pay for someone else to care for her husband. They are totally dependent on veterans' and social security benefits without any opportunity to supplement this income. Yet if such a veteran should die from a cause unrelated to his disability, his wife and children would receive a veteran's pension ranging from only $81 a month for an annual income of $300 or less, to $17 a month for an income of $2,300.

In the case of severely disabled veterans the Veterans' Administration, I am happy to note, draws the distinction between service-connected cause of death and nonservice connected cause of death rather loosely, often awarding full dependency and indemnity compensation to survivors of disabled veterans whose disability had only an incidental bearing on the actual cause of death. However, the large degree of uncertainty in this determination is a source of great worry to disabled veterans who, of course, can never be sure if they will die from their disability or from some other cause.

I believe this uncertainty and worry should be eliminated so that these veterans who have sacrificed so much for their country, will have the peace of mind of knowing that their survivors will be adequately provided for regardless of their cause of death. I also believe the Veterans' Administration should be freed from making these difficult determinations.

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

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

S. 3206

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 541 of title 38, United States Code, is amended by redesignating subsection (e) as subsection (f), and inserting after subsection (d) a new subsection as follows:

"(e) Notwithstanding any other provision of this title, the widow of any veteran of the Mexican border period, World War I, World War II, the Korean conflict, or the Vietnam era who at the time of his death was permanently and totally disabled as the result of a service-connected disability or disabilities and who at the time of his death was receiving (or was entitled to receive) additional compensation for aid and attendance and had been receiving (or had been entitled to receive) such additional compensation for a period of ten years immediately prior to his death shall be paid a pension under this section at a rate computed under the provisions of section 411 of this title. Whenever there is no widow of any such deceased veteran, pension shall be paid in equal shares to the children of such veteran at the rates prescribed in section 413 of this title."

SEC. 2. The amendments made by the first section of this Act shall become effective on the first day of the second calendar month following the month in which this Act is enacted.

By Mr. HUMPHREY:

S. 3207. A bill to provide financial assistance to the States for the development and carrying out of programs to improve the environment, and for other purposes. Referred to the Committee on Finance.

COMMUNITY COALITIONS FOR A CLEAN ENVIRONMENT ACT

Mr. HUMPHREY. Mr. President, I am today introducing legislation that will provide the mechanism for communities to identify their own local environment problems, establish action plans, and quickly move to implement these plans. The Community Coalitions for A Clean Environment Act of 1972 establishes Federal funding for locally originated and directed demonstration project community environmental action organizations. An Environmental Trust Fund within the Treasury of the United States is established in order to provide funding for the Coalitions. This trust fund receives finances from two sources: direct appropriations and a program of Environmental Savings Bonds—bonds citizens can purchase with the assurance that their savings will be spent to improve the environment.

In the last session of Congress, a number of significant environmental bills were introduced, debated, and, in some instances, acted upon: The Federal Water Quality Act of 1971, the Environmental Protection Act of 1971, the Na-

tional Environmental Laboratories, the Ocean Dumping, and Coastal Zone Protection Acts, are but examples.

Yet, in all of this legislation, the explicit interest of citizens in their environment failed to achieve prominence. Of course, almost all of the environmental legislation does have an element of citizen participation. But none focuses directly on it as a mechanism for furthering ecological improvement.

Mr. President, none can deny that there is a growing citizen awareness of environmental problems; and a mounting public determination to do something about these problems.

Air pollution for example, is just one area of concern. Air pollution can impair health; it reduces visibility, and it can kill. It does cause vast economic loss, and it most assuredly contributes to the deterioration of life in our cities. Estimates place the dollar cost of air pollution nationally at around $20 billion a year; and, it costs a family of four over $800 or more a year to live if that family has a home in a city fouled by polluted air.

The quality and purity of our water is another chief concern. And, there are serious threats to the maintenance of quality water.

Over 1,000 oil spills occur each year; last year, approximately 360 legal actions were taken against oil dumpers. Over 65 percent of the water polluters are industries that utilize direct water waste discharge methods. Municipal governments without effective sewerage systems add another 20 percent to polluted water. And again, the projected cleanup cost is staggering—over $17.1 billion for municipal waste treatment and construction cost, $9 billion for industrial abatement, $7.4 billion for storm sewers and interceptor improvements, $6.6 billion for sediment control and acid mine drainage, $2 million in just miscellaneous projects like the water craft discharge and reservoir storage—a total cost of over $42 billion.

There are other environmental areas. Agriculture experts have reported that 64 percent of our cropland needs better care to prevent erosion. Or, consider our natural wildlife: Are we taking action today that will stop the increase of the endangered species list—an increase of over 30 species in the last 3 years? What kind of protections do we have for wildlife habitat—just what is our concern for our wilderness areas?

And, environmental also means we need to take a critical look at our energy supply. Some experts have said that natural gas rationing will be part of our living style in the near future. The enormity of the energy problem is that while the whole U.S. population is less than 6 percent of the total world population, we use about 30 percent of the world's energy.

What can be done to preserve the land, the minerals, the water, the air, and the freshness of life? Various approaches to solving the problem have been offered—from new technology, to tough quality standards, to taxes, to governmental monitoring, to regional coordination, to citizen participation. All are important if we are to achieve the national goal of a clean environment.

I believe citizen participation to be particularly crucial. Yet, I am disturbed because in all too many instances, citizens do not become intimately involved in hearings even though their vital interests may be at stake. There are many reasons—for one, involvement takes time. For another, many people have become so disparied at fighting city hall that they just do not bother to expend the energy.

The legislation I am introducing today will aid and assist those citizens who want to get involved but have lacked the necessary means to do so. This legislation focuses on one aspect of the antipollution battle: the need for an effective local citizen's interest coalition to identify the problems and voice a reasoned, well-doclmented, thoroughly researched approach to solving the problem.

Title I of the Community Coalitions for a Clean Environment Act of 1972 sets up the comprehensive planning framework for local coalitions—$10 million in grants for the first year of operation are available for States and localities to establish demonstration projects under a broad State plan—a plan designed to integrate the functioning of the coalition with other activities in conservation, development, use of water, and land use policy. In the second and third year of the program, the funding available increases to $50 million and then to $100 million.

Allotments from the $10 million are made according to a formula based on the population of the State; funds are then funneled through a central State agency. And, the State will be reimbursed 80 percent of its costs for developing and carrying out approved programs embodying the concept of community coalitions. Sixty percent of State funds must be allocated to units of government serving a population of over 50,000 people.

Much of the detailed hiring specifications and organizational structures for the "coalitions" remain under local control. The only main guide is that the State plan must have broad specifications for staffing assistance to insure professional competence and help. All parts of the overall State plan for community coalitions must be prepared in a manner that assures open hearings and representativeness.

Title II of the legislation establishes an Environmental Trust Fund in the U.S. Treasury. This title also authorizes the Treasury to issue U.S. Environmental Savings Bonds. Money received from the bonds is transferred directly into the Environmental Trust Fund to pay for the local coalitions and to supplement ongoing environmental programs.

Mr. President, this legislation says to the citizens: Government cannot solve the environmental problem alone. We need the people's help to protect the broad public interest in a clean environment.

I believe that people tend to ask fundamental questions. They are not stymied by details such as emission standards, toxic additives, or effluent charges. They want to know the basics: How can we get clean air? How long will it take? Why are we not doing something right now? I submit that this is the kind of perspective and urgency we need if our environmental life is ever to be protected. It helps administrators clean out the bureaucratic cobwebs; it reminds government officials that the ends of programs are people—not agencies.

This legislation can bring new vitality and life to environmental endeavors. It is premised on an active, informed citizenry, aided by an organized citizen-based coalition to make certain that the interests of people—of workers, teachers, children, and families, are always part of governmental decisionmaking.

Mr. President, I ask unanimous consent that the bill and a section-by-section analysis thereof be printed at this point in the RECORD.

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

S. 3207

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Community Coalitions for a Clean Environment Act of 1971."

DEFINITIONS

SEC. 2. When used in this Act—

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "State" means a State, the District of Columbia, Puerto Rico, Guam, or the Virgin Islands.

TITLE I—CLEAN ENVIRONMENTAL PROGRAMS

STATEMENT OF POLICY

SEC. 101. It is hereby declared to be the policy of the Congress to recognize, preserve, and protect the primary responsibilities and rights of the States in the conservation, development, and utilization of their water and land resources and in the protection and improvement of the environment generally. In recognition of the need for assistance in these areas the Administrator is authorized to assist the States and local governments in developing and carrying out comprehensive plans to improve the environment in accordance with this title.

APPROPRIATIONS AUTHORIZED

SEC. 102. There is hereby authorized to be appropriated out of the Environmental Trust Fund established pursuant to section 201 for the next fiscal year beginning after the date of enactment of this Act, and for three succeeding fiscal years thereafter the amounts of $10,000,000, $50,000,000, and $100,000,000 in such year for grants to the States to assist them in developing and carrying out the provision of this Act establishing Community Coalitions for a Clean Environment.

ALLOTMENTS

SEC. 103. (a) From the sums appropriated pursuant to section 102 for each fiscal year the Administrator shall make allotments to the States on the basis of the population of the respective States. For the purposes of this section the population of the States shall be determined on the basis of the latest estimates available from the Department of Commerce.

(b) From each State's allotment under this section for any fiscal year the Administrator shall pay to such State an amount equal to 80 per centum of the cost of developing and carrying out its State programs approved under this title, including the cost of training

personnel on carrying out such programs and the cost of administering such programs.

DEMONSTRATION PROGRAMS COMMUNITY COALITIONS FOR A CLEAN ENVIRONMENT

SEC. 104. (a) A State shall be eligible to receive its allotment pursuant to this title for any fiscal year if it has an environmental program approved by the Administrator under this section. Such a plan shall

(1) provide that basis for the establishment of at least one demonstration project to community coalitions for a clean environment. Such coalitions shall be directed to identify the environmental problems of the local community, prepare alternative solutions to those problems, and provide guidance for additional local, State, and Federal assistance for environmental endeavors;

(2) such demonstration projects shall provide specifications for the hiring of staff, the participation of the community, and a statement of goals and objectives;

(3) be administered by a single State agency;

(4) be coordinated with and not replace existing environmental improvement programs in States;

(5) be prepared in the manner which provides (A) an opportunity for the presentation of the views of representative public organizations, and (B) for due consideration to such views in the formulation of the plan;

(6) provide for the expenditure of adequate amounts of such State's allotment for each fiscal year under this title for the maintenance of the plan;

(7) include provision for the equitable allocation of funds between the various local government units of such State, except that in such allocation 60 per centum of the funds received by the State in each year shall go to local government units serving a population in excess of 50,000;

(8) provide necessary assurances that the State and local governments will provide their share of the funds to develop and carry out the plan;

(9) provide that such administering agency will make such reports to the Administrator in such form and containing such information, as may reasonably be necessary to enable the Administrator to perform his duties under this title and will keep such records and afford such access thereto as the Administrator finds necessary to assure the correctness and verification of such reports;

(10) provide such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid the State under this title (including such funds paid by the State to local governments); and

(11) provide such further information and assurances as the Administrator may by regulation require.

(b) The Administrator shall not finally disapprove any State plan submitted under this title, or any modification thereof, without first affording the State administering agency reasonable notice and opportunity for a hearing.

(c) Nothing in this Act shall preclude two or more States from coordinating or acting jointly in the preparation and execution of their plans. Such regional cooperation and joint activity is encouraged.

HEARINGS AND JUDICIAL REVIEW

Sec. 105. (a) Whenever the Administrator, after reasonable notice and opportunity for hearing to the State agency administering a State plan approved under this title, finds that—

(1) the State plan has been so changed that it no longer complies with the provisions of this title, or

(2) in the administration of the plan there is a failure to comply substantially with any such provisions,

the Administrator shall notify such State agency that no further payments will be made to the State under this title (or, in his discretion, that further payments to the State will be limited to programs under or portions of the State plan not affected by such failure), until he is satisfied that there will no longer be any failure to comply. Until he is so satisfied, no further payments may be made to such State under this title (or payments shall be limited to programs under or portions of the State plan not affected by such failure).

(b) A State agency dissatisfied with a final action of the Administrator under section 104 or subsection (a) of this section may appeal to the United States court of appeals for the circuit in which the State is located by filing a petition with such court within sixty days after such final action. A copy of the position shall be forthwith transmitted by the clerk of the court to the Administrator or any officer designated by him for that purpose. The Administrator thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Administrator or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Administrator may modify or set aside his order. The findings of the Administrator as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Administrator to take further evidence, and the Administrator may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary shall be final, subject to the review by the Supreme Court of the United States upon certiorari or certification as provided in section 1224 of title 28, United States Code. The commencement of proceedings under this subsection shall not, unless so specifically ordered by the court, operate as a stay of the Administrator's action.

TITLE II—ENVIRONMENTAL TRUST FUND, ENVIRONMENTAL BONDS, AND OTHER ENVIRONMENTAL PROGRAMS

ESTABLISHMENT OF TRUST FUND

SEC. 201. (a) There is hereby established in the Treasury of the United States a trust fund to be known as the "Environmental Trust Fund" (hereafter in this section referred to as the "Trust Fund"). The Trust Fund shall consist of (1) the proceeds of United States environmental bonds issued under section 22B of the Second Liberty Bond Act, and (2) such amounts as may be appropriated or credited to the Trust Fund as provided in this section.

(b) Amounts in the Trust Fund shall be available—

(1) to redeem United States environmental bonds issued under section 22B of the Second Liberty Bond Act, and

(2) as provided by appropriations Act, for making payments pursuant to title I of this Act and under such other laws as may hereafter be specified by law.

Expenditures from the Trust Fund under paragraphs (2) and (3) shall be made only upon certification by the Administrator to the Secretary of the Treasury.

(c) There are authorized to be appropriated to the Trust Fund such sums as may be required to make the expenditures referred to in subsection (b) of this section.

(d) (1) It shall be the duty of the Secretary of the Treasury to hold the Trust Fund, and (after consultation with the Administrator) to report to the Congress each year on the financial condition and the results of the operations of the Trust Fund during the preceding fiscal year and on its expected condition and operations during the next five fiscal years. Such report shall be printed as a House document of the session of the Congress to which the report is made.

(2) (A) It shall be the duty of the Secretary of the Treasury to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired (i) on original issue at the issue price, or (ii) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the Trust Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 percent, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary of the Treasury determines that the purchase of other interest-bearings obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States on an original issue or at the market price, is not in the public interest.

(B) Any obligation acquired by the Trust Fund (except special obligations issued exclusively to the Trust Fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accured interest.

(C) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

ENVIRONMENTAL BONDS

SEC. 202. The Second Liberty Bond Act (31 U.S.C. 752 et seq.) is amended by inserting after section 22A the following new section:

"SEC. 22B. (a) In addition to the United States savings bonds authorized to be issued under section 22 and the United States retirement and savings bonds authorized to be issued under section 22A, the Secretary of the Treasury, with the approval of the President, is authorized to issue from time to time, through the Postal Service or otherwise, United States environmental bonds, the proceeds of which shall be deposited in the Environmental Trust Fund. The various issues and series of United States environmental bonds shall be in such forms, shall be offered in such amounts, subject to the limitations imposed by section 21 of this Act, and shall be issued in such manner and subject to such terms and conditions consistent with subsections (b), (c), and (d) of this section, including any restrictions on their transfer, as the Secretary of the Treasury may from time to time prescribe.

"(b) (1) Environmental bonds may be issued on an interest-bearing basis, on a discount basis, or on a combination interest-bearing and discount basis and shall mature not more than twenty years from the date as of which issued. Environmental bonds may be sold at such price or prices, and redeemed before maturity upon such terms and conditions as the Secretary of the Treasury may prescribe, except that the interest rate on, and the issue price of, such bonds and the

terms upon which they may be redeemed shall be such as to afford an investment yield not in excess of 5 per centum per annum, compounded semiannually. The denominations of environmental bonds shall be such as the Secretary of the Treasury may from time to time determine and shall be expressed in terms of their maturity value. The Secretary of the Treasury is authorized by regulation to fix the amount of environmental bonds issued in any one year that may be held by any one person at any one time.

"(2) The Secretary of the Treasury, with the approval of the President, is authorized to provide by regulations that owners of environmental bonds may, at their option, retain the bonds after maturity and continue to earn interest upon them at rates which are consistent with the rate of investment yield afforded by environmental bonds.

"(c) For purposes of taxation, any increment in value represented by the difference between the price paid and the redemption value received (whether at, before, or after maturity) for environmental bonds shall be considered as interest. Such bonds shall not bear the circulation privilege.

"(d) The provisions of subsections (c), (e), (g), (h), and (i) of section 22 shall, to the extent not inconsistent with the provisions of this section, apply with respect to environmental bonds issued under this section."

SECTION-BY-SECTION ANALYSIS, COMMUNITY COALITION FOR A CLEAN ENVIRONMENT ACT OF 1971

This is a bill to provide financial assistance to the States for the development and execution of programs to improve the environment.

SHORT TITLE

Section 1 cites the short title, Community Coalitions for a Clean Environment.

Section 2 defines "Administrator" as the Administrator of the Environmental Protection Agency, and "State" to mean a State, the District of Columbia, Puerto Rico, Guam, or the Virgin Islands.

TITLE I: CLEAN ENVIRONMENT PROGRAMS

Section 101 is a statement of policy that the Congress will recognize, preserve, and protect the primary responsibilities and rights of the States in the conservation, development, and use of water and land resources, and in the protection and improvement of the environment generally. Recognizing the need for assistance in these areas, the Administrator is authorized to assist States and local governments in developing and carrying out comprehensive plans to improve the environment.

Section 102 authorizes appropriations out of the Environmental Trust Fund—to be established in accordance with Section 201—for the next fiscal year beginning after date of enactment and for 3 succeeding fiscal years thereafter. $100 million in each year for grants to States to assist them in developing and carrying out programs to improve the environment according to the provisions of this Act.

(1) provides for the establishment of the Community Coalitions for a Clean Environment on a demonstration basis;

(2) provides that the plan shall have specifications for the hiring at the local community level of staff and provides also for community participation;

(3) the plan will be administered by a single State agency;

(4) the plan will be coordinated with and not replace existing environmental improvement programs in the State;

Section 103 provides (a) that from the sums appropriated under section 102 for each fiscal year, the Administrator shall make allotments to States on the basis of population, as determined from Department of Commerce estimates; and (b) from each State's allotment for any fiscal year, the Administrator shall pay to such State 80 percent of the cost of developing and carrying out its State program approved under this title, including the cost of training personnel and the cost of administration of the program.

Section 104(a) declares that a State shall be eligible to receive its fiscal year allotment under this Title if its State environmental program has been approved by the Administrator according to these specifications:

(5) The plan will be prepared in a manner which provides (a) an opportunity for representative public organizations to present their views, and (b) these views will be considered in formulating the plan;

(6) The plan makes provision for the expenditure of adequate amounts of State's allotment for each fiscal year under Title I for the maintenance of the plan;

(7) The plan will provide for equitable allocation of funds among the various local government units of the State, with 60 percent of funds received going to local government units serving a population of more than 50,000;

(8) The plan provides necessary assurances that State and local governments will provide their share of funds to develop and carry out the plan;

(9) The plan will provide that the administering agency will make reports to the Administrator containing information that will enable him to perform his duties under this Title, including the keeping of records that would be accessible to the Administrator to assure correctness and verification of such reports as necessary;

(10) The plan will provide fiscal control and fund accounting procedures so as to assure proper disbursement of, and accounting for, Federal funds paid the State under this Title, as well as such funds paid by the State or local governments;

(11) The plan will provide any other information or assurance as the Administrator may require.

Section 104(b) says that no State plan, or modification thereof, shall be finally disapproved by the Administrator without first affording the State administering agency reasonable notice and opportunity for a hearing.

Section 104(c) declares that the provisions of this Act do not preclude two or more States from coordinating, or acting jointly, in the preparation and execution of their plans. In fact, such regional cooperation and joint activity is encouraged.

Section 105(a) directs that whenever the Administrator, after reasonable notice and opportunity for hearing to the State agency administering a State plan, finds that (1) the State plan has been so changed that it no longer complies with the provisions of this Title, or (2) in the administration of the plan there is a failure to comply substantially with any such provisions, the Administrator shall notify the State agency that no further payments will be made (or, in his discretion, that further payments will be limited to programs or portions of the State plan not affected by such failure), until he is satisfied that compliance will be forthcoming. Until he is so satisfied, no further payments may be made to the State or payments shall be limited to programs/portions of the plan not affected.

Section 105(b) provides that a State agency dissatisfied with a final action of the Administrator, as spelled out in Section 104, or subsection (a) of this section, may appeal in the U.S. Court of Appeals (for the Circuit in which the State is located) by filing a petition with such court within 60 days after such final action. A copy of the petition is to be transmitted by the Clerk of the Court to the Administrator or his designee. The Administrator then shall file with the Court the record of the proceedings on which he based his actions, according to Section 2112 of Title 28, U.S.C. The Court shall affirm or set aside the action of the Administrator, entirely or in part, temporarily or permanently; however, until the filing of the record, the Administrator may modify or set aside his order. The findings of the Administrator as to the facts, supported by substantial evidence, shall be conclusive, but the Court, if good cause is shown, may remand the case to the Administrator to acquire further evidence, whereupon the Administrator may make new or modified findings of fact and may recant his previous action. The Administrator shall then file in the Court the record of the new or modified facts, and they shall be conclusive if supported by substantial evidence. The judgment of the Court in affirming, or setting aside, wholly or partly, any action of the Administrator shall be final, subject to review by the Supreme Court of the United States upon *certiorari* (or certification) as provided in Section 1254 of Title 28, U.S.C. Unless specifically ordered by the Court, the beginning of proceedings under this subsection shall not operate as a stay of the Administrator's action.

TITLE II—ENVIRONMENTAL TRUST FUND, ENVIRONMENTAL BONDS, AND OTHER ENVIRONMENTAL PROGRAMS

ESTABLISHMENT OF TRUST FUND

Section 201(a) establishes in the United States Treasury a trust fund to be known as the "Environmental Trust Fund" (hereafter called the "Trust Fund"). The Trust Fund shall be comprised of (1) proceeds from United States Environmental Bonds issued under Section 22B of the Second Liberty Bond Act, and (2) deposits made pursuant to Section 203(a) of this Act, and (3) amounts appropriated or credited to the Trust Fund as provided in this Section.

Section 201(b) declares that amounts in the Trust Fund shall be available (1) to redeem U.S. Environmental Bonds, (2) to make refunds and payments according to Section 203(b) of this Act, and (3) to make payments from appropriations according to Title I of this Act and any other applicable laws.

Expenditures from the Trust Fund under (2) and (3) above shall be made only upon certification by the Administrator to the Secretary of the Treasury.

Section 201(c) authorizes to be appropriated to the Trust Fund such sums as are required to make the expenditures authorized in subsection (b) of this Section.

Section 201(d) directs (1) that the Secretary of the Treasury shall hold the Trust Fund and, after consultation with the Administrator, shall report to the Congress each year on the financial condition and results of the operations of the Trust Fund during the previous fiscal year, and on its expected condition and operations during the next 5 fiscal years. The report to the Congress shall be printed as a House Document of the session of Congress to which the report is made.

This subsection in (2)(A) declares it to be the duty of the Secretary of the Treasury to invest such portion of the Trust Fund as he deems *not* to be required to meet current withdrawals. Such investments are limited to interest-bearing obligations of the United States, or obligations guaranteed in principal and interest by the United States. These obligations may be acquired (1) on original issue at issue price, (2) by purchase of outstanding obligations at market price. This subsection extends, through the provisions of the Second Liberty Bond Act as amended, the issuance at par of special obligations exclusively to the Trust Fund. These special obligations are to bear interest at a rate equal to the average rate of interest (computed to the end of the next calendar month preceding the date of issue) that is carried on all marketable interest-bearing obligations of the United States forming a part of the public debt . . . *Except*, where such average interest rate is not a multiple of ⅛ of 1 percent, the rate of interest of the special obli-

gations (Trust Fund) shall be the multiple of ⅛ of 1 percent next lower than the average rate. These special obligations are to be issued at the discretion of the Secretary of the Treasury, if he deems them to be in the public interest.

Subsection (2)(B) states that an obligations acquired by the Trust Fund (except special obligations issued exclusively to the Trust Fund) may be sold at the market price by the Secretary of the Treasury, and the special obligations may be redeemed at par with accrued interest.

Subsection (2)(C) requires that the interest on, and the proceeds from the sale or redemption of, and obligations held in the Trust Fund shall be credited to, and be, a part of the Trust Fund.

ENVIRONMENTAL BONDS

Section 202 amends the Second Liberty Bond Act (31 U.S.C. 752 et seq.) by inserting after section 22A a new section:

"Section 22B. (a)" In addition to the United States saving bonds authorized to be issued under section 22 and the United States retirement and savings bonds authorized to be issued under section 22A", the Secretary of the Treasury (with the President's approval) will be authorized to issue from time to time—through the Postal Service or otherwise—United States Environmental Bonds and the proceeds will be deposited in the Environmental Trust Fund. The various issues and series of environmental bonds issued will be determined by Section 21 of the Second Liberty Bond Act as amended and under conditions consistent with subsections (b), (c), and (d) of this Section, as the Secretary of the Treasury shall, from time to time, prescribe.

"Section 22B. (b)" of the Second Liberty Bond Act is amended in two ways: (1) Environmental bonds may be issued on an interest-bearing basis, a discount basis, or a combination of the two methods, and shall mature not more than 20 years from the date of issuance.

* * * * *

By Mr. HUMPHREY:

S. 3208. A bill to provide for the Establishment of an Older Workers Conservation Corps, and for other purposes. Referred to the Committee on Labor and Public Welfare.

OLDER WORKERS CONSERVATION CORPS

Mr. HUMPHREY. Mr. President, I am today introducing for appropriate reference, a bill to provide for a major expansion of opportunities for older Americans to obtain paid jobs of great importance to our communities and States. Under this bill, an Older Workers Conservation Corps program, administered by the Secretaries of Agriculture and Interior, would be established to promote useful part-time work opportunities in various conservation and environmental improvement activities for unemployed low-income persons who are 55 years old and older and who have poor employment prospects.

This program is designed to supplement—not replace—the vital pilot projects under Operation Mainstream, administered through the Department of Labor, and providing training and limited employment to disadvantaged older persons in important community service projects. But it has become clearly evident that a Government-wide emphasis must be placed upon the establishment of effective and comprehensive community service programs for older Americans across the Nation to meet both their critical income needs and to enable our States and cities to provide essential social services and community improvement services that must presently be set aside because of severe budget limitations.

Existing job training programs administered by the Department of Labor operate at a level that is totally inadequate to the need of older Americans for jobs and income. Only 3.7 percent of first-time enrollees in Department of Labor manpower and training programs are aged 45 and older. The percentage of enrollees aged 55 and older is still less—1.1 percent, with only 5,500 assisted through operation mainstream programs in fiscal 1971. But by the end of that fiscal year, nearly 500,000 individuals 55 years of age and older had lost their jobs, while 171,000 in this age category had been unemployed for 15 weeks or longer. Today, persons over age 45 represent 21 percent of total unemployment, and 30 percent of those who have been out of work over 15 weeks.

Problems of inadequate income and joblessness are particularly severe among older Americans living in rural areas. That is why, in addition to jointly sponsoring major legislation to establish comprehensive community service programs for and by older persons across America, I am introducing this bill to provide good job opportunities at a fair wage for thousands of older Americans in our rural counties, who need programs specially designed to meet their employment needs and which will be immediately accessible to them. They want to work, not wait still longer in destitution and despair. They want to continue to share in the development and improvement of our country, not be pushed aside and told to get along on meager savings and accept their isolation from society. And after long years of hard work, they deserve the security of a liveable income, not the sudden cancellation of pension rights from job layoffs.

The Older Workers Conservation Corps can play an important role in achieving these goals, through providing employment to thousands of older Americans in areas of conservation, beautification, environmental improvement, and community development projects.

Mr. President, I ask unanimous consent that the full text of the Older Workers Conservation Corps Act be printed in the RECORD.

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

S. 3208

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Older Workers Conservation Corps Act."

SEC. 2 (a) In order to foster and promote useful parttime work opportunities in various and related conservation activities for unemployed low-income persons who are fifty-five years old and older and who have poor employment prospects, the Secretaries of Agriculture and Interior (herein after referred to as the Secretaries) are authorized to establish an Older Workers Conservation Corps (hereinafter referred to as the "program".)

(b) In order to carry out the provisions of this Act, the Secretaries are authorized:

(1) to enter into agreements where feasible with public or private nonprofit agencies or organizations, agencies of a State government or a political subdivision of a State (having elected or duly appointed governing officials), or a combination of such political subdivisions, in order to further the purposes and goals of the program. Such agreements may include provisions for the payment of costs, as provided in subsection (c), of projects developed by such organizations and agencies in cooperation with the Secretaries in order to make the program effective or to supplement it. No payment shall be made by the Secretaries towards the cost of any project established or administered by any organization or agency unless they determine that such projects:

(A) Will provide employment only for eligible individuals except for necessary technical, administrative and supervisory personnel, but such personnel shall, to the fullest extent possible, be recruited from among eligible individuals;

(B) Will provide employment in the immediate areas in which the individuals reside.

(C) Will employ eligible individuals in projects related to publicly owned and operated facilities and projects or projects sponsored by organizations exempt from taxation under the provisions of section 501(c)(3) of the Internal Revenue Code of 1954 (other than political parties), except projects involving the construction, operation, or maintenance of any facility used or to be used as a place of sectarian religious instruction or worship;

(D) Will contribute to the general welfare of the nation, state and community;

(E) Will provide employment for eligible individuals who do not have opportunities for other suitable public or private paid employment, other than projects supported under the Economic Opportunity Act of 1964, or under this Act;

(F) Will result in an increase in employment opportunities for eligible individuals and will not result in the displacement of employed workers or impair existing contracts;

(G) Will utilize methods of recruitment and selection which will assure that the maximum number of eligible individuals will have an opportunity to participate in the program;

(H) Will include short-term training as may be necessary to make the most effective use of the skills and talents of those individuals who are participating;

(I) Will assure that safe and healthy conditions of work will be provided, and will assure that persons employed under such program will be paid rates comparable to the rates of pay prevailing in the same labor market area for persons in similar occupations, but in no event shall any person employed under such program be paid at a rate less than that prescribed by sections 6(a)(1) of the Fair Labor Standards Act of 1938, as amended;

(J) Will be established or administered with the advise of persons competent in the field of service in which employment is being provided, and of persons who are knowledgeable with regard to the needs of older persons; and

(K) Will authorize pay for transportation costs of eligible participants which may be incurred in employment in any project funded under this Act in accordance with regulations promulgated by the Secretaries; and

(2) to make, issue and amend such regulations as may be necessary to effectively carry out the provisions of this Act;

(c)(1) The Secretaries are authorized to pay not to exceed 90 per centum of the cost of any project which is the subject of an agreement entered into subsection (b), except that the Secretaries are authorized to

pay all of the cost of any such project which is (A) an emergency or disaster project or (B) a project located in an economically depressed area, or (C) projects involving Federally owned, operated or supervised lands.

(2) The non-federal share shall be in cash or in kind. In determining the amount of the non Federal share, the Secretaries are authorized to attribute fair market value to services and facilities contributed from non Federal sources.

ADMINISTRATION

SEC. 3(a). In carrying out the provisions of this Act, the Secretaries are authorized to use, with their consent, the services, equipment, personnel and facilities of Federal and other agencies with or without reimbursement and on a similar basis to cooperate with other public and private agencies and instrumentalities in the use of services, equipment and facilities.

(b) The Secretaries shall establish criteria designed to assure equitable participation in the administration of the Older Workers Conservation Corps projects by agencies and organizations eligible for payment under section 2(b).

(c) The Secretaries shall not delegate their functions and duties of this Act to any other department or agency of the Government.

PARTICIPANTS NOT FEDERAL EMPLOYEES

SEC. 4(a). Eligible individuals who are employed in any project funded by this Act shall not be considered to be Federal employees as a result of such employment and shall not be subject to the provisions of part III of Title 5, United States Code.

(b) No contract shall be entered into under this Act with a contractor who is or whose employees are under State law, exempted from operation of the State workmen's compensation law, generally applicable to employees, unless the contractor shall undertake to provide through insurance by a recognized carried, or by self-insurance, as allowed by State law, that the persons employed under the contract, shall enjoy workmen's compensation coverage equal to that provided by law for covered employment.

INTERAGENCY COOPERATION

SEC. 5. The Secretaries shall establish jointly an interagency advisory board with a view to achieving optimal coordination of such program.

EQUITABLE DISTRIBUTION OF ASSISTANCE

SEC. 6. The Secretaries of Agriculture and Interior shall share equally in the distribution of funds appropriated to carry out the provisions of this Act.

DEFINITIONS

SEC. 7. As used in this Act:

(a) "State" means any of the several States of the United States and the District of Columbia.

(b) "Eligible individuals" means an individual who is fifty-five years old or older, who has a low income and who has or would have difficulty in securing employment.

(c) "Conservation" means maintenance or restoration of natural resources; community betterment or beautification; antipollution and environmental quality efforts; economic development; recreational development; and other such projects which are essential and necessary to the community, State, and Nation as the Secretaries, by regulation, may prescribe.

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. There are hereby authorized to be appropriated $130,000,000 for the fiscal year ending June 30, 1973, and $150,000,000 for fiscal year ending June 30, 1974.

By Mr. HARTKE:

S. 3209. A bill to provide for a study of the feasibility and desirability of establishing a proposed Ohio River National Parkway in the State of Indiana, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

OHIO RIVER NATIONAL PARKWAY

Mr. HARTKE. Mr. President, today I introduce legislation that would lead to the creation of recreational facilities for millions of people in the Midwest portion of our country. This bill provides for a study of the feasibility and desirability of establishing an Ohio River National Parkway running along the northern side of the Ohio River between Aurora and Troy, Ind.

This legislation has been introduced in previous years by myself and by my distinguished colleague from Indiana, Representative LEE H. HAMILTON. On those occasions, during the 89th and 90th Congresses, cutbacks were being made in highway construction funds due to the Vietnam war. As we continue to withdraw from that tragic endeavor, however, these funds are once again available, and the parkway proposed by this bill deserves renewed consideration.

Currently, there are five national parkways, three of which are in the Washington area. There have been no additions to this group since 1950. The portion of the Ohio River that would be banked by this parkway is one of the most scenic of the river's entire length. The proposed plan would bring these beautiful sights within the reach of 10 million people from Indiana, Kentucky, Ohio, Tennessee, and Missouri. In addition to the esthetic benefits derived from the parkway's location, it would also serve as a connecting link to the Lincoln Trail in Spencer County and, possibly, with the Lincoln Memorial National Parkway.

The Ohio River has played a significant role in the expansion of our country, and the trail history winding along its shores should be made available to more people than the present highway system permits. The bill I offer today will not only enable area residents to enjoy the historical and recreational sites this section of the country has to offer, but it will also make it readily accessible to visitors coming from other parts of the Nation.

Mr. President, I hope that my colleagues will give this proposal the consideration it merits, and I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

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

S. 3209

A bill to provide for a study of the feasibility and desirability of establishing a proposed Ohio River National Parkway in the State of Indiana, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized and directed, in consultation with the Secretary of Transportation, to conduct a study of the route of a proposed national parkway beginning at a point at or in close proximity to Aurora, Indiana, and extending generally along the northern banks of the Ohio River to a point ending at, or in close proximity to, Troy, Indiana. Based on the results of such study, the Secretary of the Interior shall submit a report, as to the feasibility and desirability of establishing a proposed Ohio River National Parkway generally along the route referred to herein, to the Congress within two years from the effective date of this Act. Such report shall contain full information relative to the cost of constructing such a parkway, and proposed legislation to carry out any recommendation that such a parkway be authorized.

SEC. 2. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. HARTKE (for himself and Mr. CRANSTON):

S. 3210. A bill to amend the Public Health Service Act to provide assistance to certain non-Federal institutions, agencies, and organizations for the establishment and operation of cooperative community programs for patients with kidney disease for the conduct of training related to such programs, and to provide financial assistance to individuals suffering from chronic kidney disease who are unable to pay the costs of necessary treatment. Referred to the Committee on Labor and Public Welfare.

KIDNEY DISEASE

Mr. HARTKE. Mr. President, ours is a highly advanced society. We spend billions of dollars each year to go from home to work, from coast to coast, from one continuent to another, and from earth into space. Tens of billions are spent on weapons to kill, on cosmetics to make us look pleasing, and on appliances to make our lives easier. We do all of this, but when it comes to maintaining our health, we revert to the primitive values and attitudes of the distant past.

In what must be the most tragic irony of the 20th century, people are dying because they cannot get access to proper medical care. We have learned how to treat or to cure some of the diseases which have plagued mankind for centuries, yet these treatments are not available to most Americans because of their cost.

Mr. President, more than 8,000 Americans will die this year from kidney disease who could have been saved if they had been able to afford an artificial kidney machine or transplantation. These will be needless deaths—deaths which should shock our conscience and shame our sensibilities.

What are we to say to these 8,000 people? How do we explain that the difference between life and death is a matter of dollars? How do we explain that those who are wealthy have a greater chance to enjoy a longer life than those who are not? These are difficult questions to ask; they are even more difficult to answer.

Mr. President, we can begin to set our national priorities straight by undertaking a national effort to bring kidney disease treatment within the reach of all those in need. Today, I introduce on behalf of Senator HARTKE and Senator CRANSTON the Kidney Disease Treatment and Prevention Act so that we may save 8,000 lives this year, and hundreds of thousands of lives in the years to come.

Each year, about 8 million Americans are afflicted with kidney diseases. Diseases of the kidneys and diseases affecting these organs rank among the major

ailments which undermine or destroy good health. As the fifth leading cause of death in this country, the insidious nature of kidney diseases is reflected in the fact that many people who harbor infectious organisms in their urinary tract will have no warning of their disease until kidney damage is beyond repair. Of the nearly 8 million new victims each year, about 2,800,000 suffer from hypertensive renal cardiovascular diseases causing 35 percent of deaths from kidney disease; about 2 million suffer from infectious diseases causing 18 percent of deaths; and about 3 million suffer other diseases such as hypersensitivity, calculi, urinary abnormalities, and other ailments causing 26 percent of the deaths.

In terms of indirect costs of mortality—lost future income—kidney disease is the highest ranking killer, costing the country $1.5 billion annually. Additionally, more than $1 billion has to be spent each year for hospital and nursing home care, professional services, and drugs. Surprisingly, this exceeds the annual medical services costs for maternity care, or for all forms of cancer.

Mr. President, the Kidney Disease Treatment and Prevention Act provides assistance to certain non-Federal institutions, agencies, and organizations for the establishment and operation of cooperative community programs for patients with kidney disease and for the conduct of training related to such programs. It also provides financial assistance to those people suffering from chronic kidney disease who cannot afford treatment; 50,000 Americans need dialysis treatment today, but 42,000 of these people cannot afford it. My proposal will put life back within the grasp of these 42,000 people. I ask unanimous consent that the text of my bill be printed at this point in the RECORD.

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

S. 3210

A bill to amend the Public Health Service Act to provide assistance to certain non-Federal institutions, agencies, and organizations for the establishment and operation of cooperative community programs for patients with kidney disease for the conduct of training related to such programs, and to provide financial assistance to individuals suffering from chronic kidney disease who are unable to pay the costs of necessary treatment

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Kidney Disease Treatment and Prevention Act of 1972."

SEC. 2. Part B of title III of the Public Health Service Act is amended by adding at the end thereof the following new sections:

"Establishment and Operation of Cooperative and Community Programs for the Prevention and Treatment of Kidney Disease.

"SEC. 319. (a) It is the purpose of this section to provide financial support through grants to public and other nonprofit schools of medicine, hospitals, agencies, and institutions to assist in the establishment and operation of cooperative and community prevention and treatment program for patients with kidney diseases and for training related to such programs.

"(b) There are hereby authorized to be appropriated the sums of $12,000,000 in the fiscal year ending June 30, 1973; and $20,000,000 for each succeeding fiscal year until and including the fiscal year ending June 30, 1977, to enable the Secretary to carry out the purposes of this section and section 320 of this Act.

"(c) The Secretary shall, after consultation with the National Advisory Committee on Kidney Disease Programs (etsablished pursuant to section 321 of this title), prescribe general regulations and guidelines concerning (1) eligibility of public or nonprofit agencies, institutions, or organizations for grants under this section, (2) determination of costs with respect to which such grants may be made, (3) the terms and conditions under which such grants will be made, and (4) the assurance that all grants are coordinated with any existing regional plan for a kidney disease program in a particular area.

"(d) There is hereby established in the Department of Health, Education, and Welfare the Office of Kidney Centers, for the purpose of administering sections 320 and 321 of this Act and providing coordination of Federal activities in the prevention and treatment of kidney disease. The Secretary is authorized to appoint a Director and such additional personnel as are required to perform the responsibilities specified in this Act and such additional responsibilities as the Secretary may assign to the Office of Kidney Centers.

"(e) Subject to the regulations and guidelines established pursuant to subsection (c) the Office of Kidney Centers shall assist in establishing kidney center programs. This assistance shall consist of providing information, services, and grants for planning, training, construction, renovation, and percentage contributions toward the operation of kidney centers.

"(f) A 'kidney center' for the purpose of this section means:

"(1) a 'cooperative kidney center' established within or as a part of a medical school or hospital that has demonstrated a high level of professional competence in relevant medical disciplines. The purpose of the kidney center would be:

"(i) to train medical and supporting personnel;

"(ii) to provide transplantation treatment for patients with chronic uremia where this form of therapy is indicated;

"(iii) to provide dialysis treatment when medically indicated in connection with training, research, and transplantation;

"(iv) to engage in research and the development of new techniques;

"(v) to coordinate with and establish appropriate relations with one or more local community dialysis units (described in subsection (f)(2)); and

"(vi) to assure that knowledge and treatment of kidney disease will evolve in a balanced fashion;

"(2) a local 'community dialysis unit' established in conjunction with and in continuing relationship with 'cooperative kidney center.' The purposes of a community dialysis unit would be:

"(i) to provide a central training and treatment facility for the care of persons having chronic kidney disease;

"(ii) to provide training and supervision to physicians, staff members, and to patients who are candidates for home dialysis;

"(iii) to foster and promote the availability and wider use of the equipment and techniques of home dialysis.

"(g) The amount of any grant to carry out the purposes of this section shall include:

"(1) 100 per centum of the costs directly related to the training of physicians, staff members, patients, and their families;

"(2) 100 per centum of the costs for construction or renovation of existing facilities and for the necessary equipment to establish a kidney center under the provisions of subsection (f)(1);

"(3) 60 to 90 per centum of the costs for construction or renovation of existing facilities and for the necessary equipment to establish a community dialysis unit under the provisions of subsection (f)(2). The percentage contribution shall be determined on the basis of the economic status of the particular community involved pursuant to guidelines established by the Secretary;

"(4) 90 per centum in the first year of full operation, 60 per centum in the second year, and 30 per centum in the third year and thereafter of the operation and maintenance costs of cooperative kidney centers and community dialysis units established pursuant to this Act: *Provided, however,* That grants under this subsection may be in lesser amount if the Secretary determines that centers and units are capable of meeting a larger share of costs of operation.

"(h) Three years after the Secretary formally publishes notice in the Federal Register that applications will be received for grants under this section, the President will transmit to the Congress any recommendations he may wish to make concerning the program. In the event that no changes are made in the authorizing legislation, the program shall continue as authorized under this section and section 320.

"THE NATIONAL ADVISORY COMMITTEE ON KIDNEY DISEASE PROGRAMS

"SEC. 320. (a) There is hereby authorized a National Advisory Committee on Kidney Disease Programs. The Committee shall consist of four members currently in Government service and eight members, not otherwise in the employ of the United States, appointed by the Secretary and with regard to the civil service laws, who are leaders in the fields of the basic medical sciences related to kidney disease, kidney disease diagnosis and treatment, community health programs, or public affairs.

"(b) Each appointed member of the Committee shall hold office for a term of four years, except that any member appointed to fill a vacancy prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term and except that the term of office of the members first taking office shall expire, as designated by the Secretary at the time of appointment, four at the end of the third year after the date of appointment. An appointed member shall not be eligible to serve for more than two terms.

"(c) Appointed members of the Committee while attending meetings or conferences thereof or otherwise serving on the business of the Committee shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $100 per day, including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(d) The Committee shall advise and assist the Secretary in the preparation of regulations for, and as to policy matters arising with respect to, the administration of this section insofar as it pertains to kidney disease, or the diagnosis, treatment, and care of patients suffering from such diseases. After the Committee is established, it shall consider all applications for grants under section 320 which pertain to kidney diseases, or the diagnosis, treatment, and care of patients suffering from such diseases and shall make recommendations to the Secretary with respect to approval of application for the amounts of such grants.

"(e) The Committee shall also review and make recommendations on kidney disease

programs of departments and agencies of the Federal Government, including, but not limited to, those in the Veterans' Administration, the Public Health Service, and the Vocational Rehabilitation Administration, so that the methods, facilities, and programs of these administrative agencies can best be utilized in supporting programs for prevention and treatment of kidney disease. Particular attention shall be paid to the coordination of activities of these various agencies in a given region so as to insure adequate geographical distribution of services and avoid duplication of facilities and services.

"ASSISTANCE TO INDIVIDUALS SUFFERING FROM CHRONIC RENAL DISEASE

"SEC. 321. (a) It is the purpose of this section to provide financial assistance to individuals who suffer from chronic renal disease and require hemodialysis or other lifesaving care and treatment therefor.

"(b) In order to assure that individuals who suffer from chronic renal disease and require hemodialysis or other lifesaving care and treatment therefor, but who are unable to pay the costs of such care and treatment on a continuing basis, will not be denied such care and treatment because of their inability to pay such costs, the Secretary is authorized to establish and carry out a program of assistance under which, subject to subsection (c), payments will be made to or on behalf of such individuals for any part of such costs which they are unable to pay from funds otherwise available to them.

"(c) Payments from the program established pursuant to this section—

"(1) may be made only with respect to the care and treatment of individuals who are citizens of the United States or aliens lawfully admitted to the United States for permanent residence;

"(2) shall, in cases involving hemodialysis, be made only to the extent that they do not exceed the cost of the least expensive form of dialysis which is or would be medically sufficient (reduced in any such case by an amount equal to the portion of the costs actually incurred which the individual is able to pay); and

"(3) shall be subject to such terms and conditions as to eligibility and amount, and made in such manner and form in accordance with such standards and procedures, as may be prescribed by the Secretary in regulations designed to assure that the purpose of this section is effectively carried out.

"(c) To carry out the purpose of this section, there are hereby authorized to be appropriated the sums of $15,000,000 in the fiscal year ending June 30, 1973, and $25,000,000 for each succeeding fiscal year.

By Mr. GAMBRELL:

S. 3212. A bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 to allow, in the case of certain States, an exemption from the effective date of such Act. Referred to the Committee on Government Operations.

Mr. GAMBRELL. Mr. President, it has come to my attention that some States, including Georgia, are faced with a State constitutional inability to comply with certain provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. I am offering legislation today which would amend that act to grant a limited extension of the effective date to allow those States an opportunity to bring themselves into compliance.

The need for this amendment can best be seen by looking at the provisions of the act itself. The act went into effect on January 2, 1971, and requires that after July 1, 1972, payment of relocation costs will be shared by local public agencies on the same basis as in the project being undertaken. If, after July 1, 1972, a local public agency cannot give satisfactory assurance to the head of the participating Federal agency that the public agency will be able to pay its share of relocation costs, then no Federal funding will be allowed for the project.

However, the expenditure of public funds by State and local governments for relocation payments and assistance is not currently authorized in every instance required by the Relocation Act, and sufficient time was not given for an appropriate State constitutional amendment to be ratified where one was needed. The obvious result will be the loss of millions of dollars and the delay of public projects.

The exemption provided by this amendment would give adequate opportunity for State constitutional amendments to be ratified and implemented by legislation. At the same time, however, the main intent and purpose of the Relocation Act would be effectuated to the fullest extent possible.

By Mr. BYRD of West Virginia (for Mr. BIBLE):

S. 3214. A bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. Referred to the Committee on Government Operations.

Mr. BYRD of West Virginia. Mr. President, on behalf of the distinguished senior Senator from Nevada (Mr. BIBLE), I introduce a bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and I ask unanimous consent that a statement prepared by him in connection with the introduction of this bill be printed at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT OF SENATOR BIBLE

I introduce for appropriate reference a bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

The 1970 Act was one of the most important accomplishments of the 91st Congress. It was an overdue consolidation and comprehensive reformation of the federal laws relating to the acquisition of real property under federal and federally-assisted programs and the relocation of families, individuals and businesses displaced by such programs.

The 1970 Act provides that after July 1, 1972 no federal agency may approve any federal financial assistance to a State agency for any program which will result in the acquisition of real property or the displacement of any person unless the head of the federal agency involved receives satisfactory assurances that the State agency is able under State law to provide the same level of relocation payments and assistance required to be provided by a federal agency under the 1970 Act.

This means that in order to remain eligible for continued federal financial assistance it is necessary that States conform their own relocation statutes to the requirements of the new federal statute, and it has come to my attention that some of the States—including my own State of Nevada—need additional time in which to do so.

The effect of this amendment would be to extend for one year the period given the States to conform their laws to the requirements of the federal statute.

The Governor of Nevada was recently advised by the Economic Development Administration of the Department of Commerce that after July 1, 1972 the State of Nevada and all political subdivisions thereof may no longer be eligible as recipients of federal financial assistance from such federal agencies as the Economic Development Administration, Environmental Protection Agency, Department of Housing and Urban Development, and the Farmers Home Administration. According to EDA, such a termination of federal financial assistance will be necessitated by the present provisions of section 221(b) of the 1970 Act.

The 1970 Act became effective January 2, 1971. The Nevada State Legislature meets biennially. During its 1971 session, the State Legislature initiated but did not complete its consideration of and action on amendments conforming State law to the requirements of the 1970 Act. The Legislature will not be meeting this year and further consideration of relocation assistance legislation cannot take place until January 1973.

Obviously, it was not the intent of the 1970 Act that there be a wholesale termination of federal assistance programs in any State. The Act contemplated that State legislatures would have ample time to conform their laws, but the limited period allowed State legislatures by section 221 has not sufficed for Nevada, and may well have created comparable problems for other States whose legislatures do not meet annually.

This is a matter requiring immediate attention in order that whatever action is needed can be taken to assure that federal financial assistance to Nevada and other states will not be impaired by the present provision of the Uniform Relocation Assistance Act.

By Mr. PROXMIRE:

S. 3215. A bill to expand the market for municipal securities, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs, by unanimous consent.

Mr. PROXMIRE. Mr. President, today I am introducing a bill to expand the market for municipal securities in order to help our State and local governments finance their need for more schools, hospitals, pollution control facilities, and other capital needs. The bill directs the Secretary of the Treasury to pay 33 percent of the interest on taxable bonds issued by State or local governments in lieu of issuing tax-exempt bonds. The entire cost of these interest payments will be more than offset by increased tax revenues from investors who purchase the taxable bonds instead of tax-exempt bonds. State and local governments will also save money since a subsidized taxable bond will usually involve lower net interest payments than an equivalent tax-exempt bond.

My bill in no way restricts the right of State and local governments to issue tax-exempt securities. Instead, it gives State and local governments a new financing option—a subsidized taxable security. State and local governments will have complete freedom to decide which type of security to issue and to choose whichever one they believe is most advantageous to them.

Mr. President, the legislation has three main obectives:

First, it seeks to increase the equity and

efficiency of the present tax-exempt system for financing municipal securities by creating an alternative financing method which will produce greater benefits at lower cost;

Second, it seeks to expand the scope of the municipal securities market by providing incentives for new institutional investors to invest in municipal securities;

Third, it seeks to reduce cyclical instability in the municipal bond market resulting from periodic shortages of credit due to monetary policy or other factors.

TAX-EXEMPT BONDS CREATE WINDFALLS

Many studies have concluded that the issuance of tax-exempt securities is an inequitable and inefficient method for financing State and local capital needs. It is inequitable and inefficient, because the benefits of tax exemption are not fully passed on to State and local governments. The cost to the Treasury in the way of lost tax revenue exceeds the benefit to municipalities in the way of lower borrowing costs. The difference represents a windfall profit to wealthy investors who are least in need of Government welfare assistance.

One solution to the problem might be to abolish tax-exempt securities and pay a direct subsidy to State and local governments to compensate them for the higher interest they would be required to pay. I believe this approach is unsatisfactory, because State and local governments would surrender a substantial benefit without any assurance that the subsidy payments will continue. It is therefore understandable why State and local governments have resisted any attempt to restrict their freedom to issue tax-exempt bonds. This freedom must be respected by the Federal Government if we are to preserve the traditional independence and autonomy of State and local governments. By giving State and local governments an option to issue taxable bonds, as my bill does, we remove some of the inefficiencies and inequities of the tax-exempt system without jeopardizing the freedom and independence of State and local governments.

ANNUAL SAVINGS OF $1.9 BILLION

If a State or local government elects to issue a subsidized taxable bond, the cost of the subsidy will be more than offset by the increased tax revenues paid by investors who purchase taxable securities instead of tax-exempt securities. This is because the average tax bracket of municipal bondholders is 42 percent as estimated by the Treasury whereas the amount of the interest subsidy is only 33 percent. Thus, the Treasury will collect $42 in tax revenues for each $33 it pays out in subsidies. At the same time, State and local governments will benefit since a taxable bond with a 33-percent interest subsidy will result in lower interest than an equivalent tax-exempt bond. Over the last 9 years, the interest on tax-exempt municipal bonds has been only 27 percent below the interest on taxable corporate bonds.

If subsidized taxable bonds were fully utilized by municipalities, I estimate that over the next 10 years the U.S. Treasury would save nearly $1.3 billion a year while municipalities would save nearly $600 million a year. These potential savings could be reduced if the taxable bond alternatives were not fully utilized by State and local governments. Nonetheless, the potential savings are large enough to warrant serious consideration of the proposal by the Congress. I ask unanimous consent that a table showing how these savings were calculated be inserted in the RECORD at the end of my remarks.

ASSURED FUNDING

In order to give State and local governments assurance that the subsidy payments will continue, my bill provides that they will be financed by a permanent indefinite appropriation. Interest payments on the national debt are financed in the same manner; hence, there is adequate precedent for extending the authority to State and local debt. Such an approach would not violate the appropriations process since the Treasury will collect more than enough tax revenue to pay the cost of the subsidy.

EXPANDING SCOPE OF MARKET

Another problem of the municipal bond market is that it is unduly restricted in size, because of the tax-exempt system. Municipal securities trade at a lower interest rate because of their tax-exempt status. Accordingly, they are of interest only to investors in higher tax brackets. Investors in lower tax brackets have little or no incentive to invest in municipal securities since they can earn a higher after-tax yield by investing in corporate securities. Low tax bracket investors who shun the municipal market include pension funds, mutual life insurance companies, savings and loan associations and mutual savings banks. These institutions invested over $41 billion during 1970; virtually none of the funds went into the municipal bond market.

In recent years, commercial banks have become the dominant force in the municipal bond market. From 1965 through 1970, commercial banks purchased over 65 percent of new municipal bond issues. However, there is serious question whether commercial banks can continue to supply the bulk of the funds for the municipal bond market. Bank investment in municipal bonds may be approaching the saturation point. For example, in 1959, 8.8 percent of commercial bank credit was invested in State and local obligations whereas by 1970 the percentage was nearly double at 15.7 percent. Commercial banks owe primary allegiance to their business customers, and only invest in municipal bonds when the funds are not needed by their commercial accounts. It therefore seems highly doubtful that commercial banks can continue investing a higher and higher percentage of their funds in State and local obligations. If the banks level off their portfolio holdings of municipals at 16 percent, more funds will have to come from nonbank investors to meet the projected capital needs of State and local governments.

Studies by the Urban Institute indicate that commercial banks will not be able to meet the borrowing needs of State and local governments which are projected to reach $30 billion a year by 1975. These studies project an annual growth rate of over 10 percent in State and local borrowing. Since the supply of savings is not likely to grow at the same high rate, the market for municipal bonds must be expanded if the additional funds are to be forthcoming.

Some might argue that the record high level of State and local borrowing in 1971 indicates that the present tax-exempt market can expand to meet future capital needs. During 1971, State and local governments sold over $24 billion in new bond issues compared to $18 billion in 1970 and $12 billion in 1969. However, it is unrealistic to expect that this high level of borrowing can continue. Commercial banks experienced an unusually heavy inflow of funds during 1971 as consumers began saving more and as deposit rates at banks became more competitive with open market securities. Time deposits at commercial banks increased by $42 billion during 1971 compared to an annual average of $18 billion during the 4 preceding years. At the same time, the demand for business loans began to slacken. Commercial and industrial loans increased by only $4 billion in 1971. As a result, bankers had a record volume of funds to invest in the municipal bond market. It is unlikely that this favorable combination of circumstances will exist throughout the 1970's.

Under my bill, the market for municipal securities would be considerably expanded by attracting pension funds, life insurance companies, mutual savings banks, and savings and loan associations who are not in the market today. These institutional investors supplied an annual average of $33.6 billion in funds over the last 5 years compared to $33.1 billion from commercial banks. Thus, the potential market for municipal bonds among institutional investors would be more than doubled if my legislation is enacted. Given the broader market, municipalities would be in a much better position to attract the additional funds required to finance their growing capital needs. I ask unanimous consent that a table showing the supply of funds from various institutional investors be printed in the RECORD at the end of my remarks.

CYCLICAL INSTABILITY

A third problem of the municipal bond market is that it is becoming increasingly vulnerable to monetary policy. The problem of cyclical instability is aggravated by commercial bank behavior during a credit crunch. During the 1966 credit shortage, banks only acquired 30 percent of the net increase in municipal debt; during the 1969 credit shortage, banks acquired less than 5 percent of the net increase in municipal debt. The next period of tight money might very well see commercial banks become net sellers of municipal bonds.

Commercial banks withdraw from the municipal bond market during a period of tight money to continue lending to their business loan customers to whom they owe primary allegiance. As a result, yields on municipal bonds must rise to abnormally high levels in order to attract nonbank investors. The interest

spread between municipal bonds and corporate bonds of comparable risk and maturity always narrows during a credit shortage, thereby eroding the benefits of tax exemption at a time when financial assistance is needed the most.

The municipal bond market is likely to suffer even more cyclical instability in the future to the extent we make greater use of monetary policy to stabilize the economy. Moreover, monetary policy will impinge more heavily on the municipal bond market to the extent that a greater percentage of outstanding municipal bonds are held by commercial banks. When commercial banks dominate the municipal bond market, their withdrawal because of tight money can be disastrous. Finally, the problem of cyclical instability in the municipal bond market is likely to worsen as Government efforts increase to insulate the mortgage market from monetary policy. Under these circumstances, a greater share of the burden of adjusting to tight money will be transferred to the municipal bond market.

A boom-and-bust pattern in the municipal bond market creates uncertainty and inefficiency in capital spending programs. Planned expenditures must be cut back, or postponed, often at a greater ultimate cost. Interest costs are subject to sharp increases if a project must be financed when rates are abnormally high. The cost of municipal construction will inevitably increase as contractors begin to anticipate delays or changes brought about by changing financial conditions.

The problem of cyclical instability would be alleviated by my bill in two ways. First, the market will be more stable to the extent other investors are attracted in addition to commercial banks whose investment policies have been the most volatile. Pension funds and life insurance companies offer a particularly stable source of funds since they are less vulnerable to monetary policy. Second, by paying a fixed subsidy of 33 percent, the taxable bond alternative will become more attractive to municipalities during tight money periods when the spread between taxable and tax-exempt yields begins to narrow. Taxable bonds will make it possible for municipalities to stay in the market when they might otherwise be priced out, because of abnormally high rates on tax-exempt bonds. For example, during 1969 credit crunch the spread between taxable and tax-exempt yields declined from 31 percent in 1968 to 22 percent in 1969. Obviously, a 33-percent interest rate subsidy would have been much more advantageous in 1969 when the municipal bond market was in serious disarray.

THE URBANK APPROACH

There have been other approaches toward improving the municipal bond market. One proposal for easing the municipal financing burden is the Urban Development Bank or so-called Urbank. Proposed during the last few days of the Johnson administration, Urbank would purchase tax-exempt securities from State and local governments. It would finance its purchases by selling taxable securities in the bond market and rely upon a Federal subsidy to make up the difference between its cost of borrowing and the rate it earned on municipals.

The Urbank would operate at little or no cost to the Treasury since the cost of the subsidy would be offset by the tax revenues derived from the substitution in the marketplace of taxable securities for tax-exempt securities.

The Urbank proposal has been criticized on a number of grounds:

First, the proposal contemplates that State and local governments meet fairly specific planning requirements before their securities would become eligible for Urbank purchase. Thus, Urbank could become an instrument of increasing Federal domination although this certainly was not the intent of its sponsors.

Second, Urbank borrowing capacity would be controlled by the Secretary of the Treasury. To the extent local governments become dependent on Urbank, their ability to obtain credit could be turned on or off at will by the U.S. Treasury. Since the Treasury itself is a borrower in the bond market, State and local governments may have to take a back seat to the Federal Government when it comes to issuing bonds.

Third, the bonds issued by Urbank would be underwritten by a handful of large New York investment houses. These firms would gain business at the expense of the 600 to 700 regional investment banking firms on whom State and local governments have thus far relied to underwrite municipal issues. With their marketing network destroyed, State and local governments would then become highly dependent on Urbank and the Federal Government for their financial needs. While local governments would be theoretically free to market their own tax-exempt issues, it would be a meaningless freedom if the distribution channels were put out of business.

THE INCREMENTAL APPROACH

The Nixon administration seems to be pursuing the Urbank approach, but on a piecemeal basis. Legislation has already been obtained authorizing "mini-urbanks" to deal in State and local obligations issued in connection with Federal programs for hospital construction, rural housing, and new-town development. Legislation is pending setting up similar Federal banks for State housing authority bonds and pollution bonds. The latter bill establishing an Environmental Financing Authority, has been reported by the House Committee on Public Works.

The proliferation of these separate Federal banks could be effectively merged into a single mechanism if the Treasury's bill for a Federal financing bank is enacted by the Congress. This legislation (S. 3001) would set up a bank under Treasury control to consolidate many of the separate credit programs and to channel agency borrowing through a single outlet.

All of the disadvantages of the Urbank approach would be revived with the administration's incremental approach to the problem. Moreover, the proliferation of separate agency issues adds a heavy burden to the market and escalates the cost of financing public programs. We need a comprehensive and not a piecemeal solution. We need to expand the entire municipal bond market, not just selected categories of the market. We need to give State and local officials greater authority in determining capital spending priorities and not preempt their authority in Washington. And we need to assure State and local authorities that financial assistance will be provided on a permanent basis.

SUPPORT FOR BILL

Mr. President, I believe there is an emerging consensus for the type of legislation I have introduced. Last August, a task force of the National League of Cities recommended that cities should have the option to issue subsidized taxable bonds. A slightly different version of the plan was endorsed by the annual conference of the National League of Cities last December. The U.S. Governors Conference has similarly endorsed the approach taken by my bill. The Investment Bankers Association voted overwhelmingly last December to endorse legislation along the lines of my bill. The legislation I have introduced is also strongly supported by Frank E. Morris, president of the Federal Reserve Bank of Boston and a leading authority on the municipal bond market. In a seminar organized by the bank, 30 leading authorities on State and local finance reached a consensus that legislation along the lines of my bill should be enacted. I ask unanimous consent that a copy of a Federal Reserve Bank press release about the seminar be printed in the RECORD at the end of my remarks. I also ask unanimous consent that the bill be referred to the Committee on Banking, Housing and Urban Affairs, and that a copy of the legislation be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

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

S. 3215

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

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. (a) The Congress finds that—

(1) It is desirable that the market for securities of State and local governments be broadened without infringing on the right of State and local governments to issue tax-exempt securities;

(2) Federal interest subsidy payments made to State and local governments in return for issuing taxable securities will—

(A) Broaden the market for municipal securities by attracting new investors in lower income tax brackets such as pension funds which receive little or no benefit from purchasing tax-exempt securities;

(B) Stabilize the flow of credit into the municipal bond market during periods of restrictive monetary policy and rising interest rates; and

(C) Increase Federal tax revenues and reduce interest payments of State and local governments, thereby resulting in aggregate public benefits in excess of the cost of the interest subsidy payments.

(b) It is the purpose of this Act to provide Federal financial assistance to increase the marketability of State and local securities and thereby expand the municipal capital market.

DEFINITIONS

SEC. 3. For the purpose of this Act—

(a) The term "State or local obligation" means any obligation issued by or on behalf of a State or local public body to finance the construction, reconstruction or acquisition of any capital improvements, but such term does not include any obligation which is an industrial development bond as defined in Section 103(c)(2) of the Internal Revenue Code of 1954;

(b) "State" means any one or more of the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and Territory, and any of the possessions of the United States;

(c) "local public body" means any municipality or other political subdivision of any one or more States, including, without limitation, any agency or body corporate or other instrumentality of one or more of the foregoing; and any Indian tribe; and

(d) "Secretary" means the Secretary of the Treasury or his delegate.

INTEREST REDUCTION PAYMENTS

SEC. 4. (a) The Secretary shall enter into a contract with any State or local public body so requesting to make periodic interest reduction payments on behalf of such State or local public body to reduce the net interest cost, as determined in subsection (b), on any State or local obligation issued or authorized to be issued by or on behalf of such State or local public body after the effective date of this Act.

(b) The interest reduction payments authorized under subsection (a) on account of a State or local obligation shall (1) be sufficient to pay 33⅓% of the net interest cost per annum of such obligation as determined by the Secretary, and (2) be made at such periodic intervals as may be necessary to pay interest to the holder of such obligation at the time such interest is due.

(c) The interest reduction payments referred to in subsection (b) shall be made by the Secretary either directly to the issuer of the State or local obligation or to a trustee or paying agent therefor, as may be requested by such issuer.

(d) The obligation of the Secretary to make such interest reduction payment may be evidenced by a supplemental endorsement on, or supplemental coupon or coupons affixed to, the instrument evidencing such State or local obligation or in such other manner as may be set forth in the contract referred to in subsection (a).

REGULATIONS

SEC. 5. The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this Act.

REPORTS TO CONGRESS

SEC. 6. Not later than April of each year, the Secretary shall report to the Congress concerning the administration of his functions under this Act.

PERMANENT ANNUAL APPROPRIATIONS

SEC. 7. Section 3689 of the Revised Statutes (31 U.S.C. 711) is amended by inserting after—

"Interest on the public debt"

"For payment of interest on the public debt, under the several Acts authorizing the same."

the following:

"Payments with respect to certain securities:

"For interest reduction payments under the Municipal Capital Market Expansion Act.".

OBLIGATIONS AS LAWFUL INVESTMENTS

SEC. 8. State or local obligations for which interest reduction payments are provided in a contract made by the Secretary under this Act shall be lawful investments, and may be accepted as security for fiduciary, trust, and public funds, the investment or deposit of which shall be under authority or control of the United States or of any officer or officers thereof.

AMENDMENTS RELATING TO FINANCIAL INSTITUTIONS

SEC. 9. (a) The first paragraph of section 5(c) of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. 1464(c)) is amended by inserting "or in State or local obligations, as defined in Section 3 of the Municipal Capital Market Expansion Act, for which interest reduction payments are provided in a contract made by the Secretary of the Treasury or his delegate under Section 4 of the Municipal Capital Expansion Act," in the second proviso immediately after "any political subdivision thereof".

(5) Section 107(8)(E) of the Federal Credit Union Act, as amended (12 U.S.C. 1957(8)(E)) is amended by inserting before the semicolon at the end thereof the following: ", or in State or local obligations, as defined in Section 3 of the Municipal Capital Market Expansion Act, for which interest reduction payments are provided in a contract made by the Secretary of the Treasury or his delegate under Section 4 of the Municipal Capital Market Expansion Act".

EFFECTIVE DATE

SEC. 10. This Act shall become effective ninety days following its enactment.

CALCULATION OF PUBLIC BENEFITS—PROXMIRE BILL TO EXPAND MUNICIPAL BOND MARKET

[In percent]

	Rate on taxable corporate bonds	Rate on taxable corporate bonds with 33 percent interest subsidy	Rate on tax-exempt State and local obligations	Difference between subsidized taxable rate and tax-exempt rate
Year:				
1962	4.62	3.09	3.30	0.21
1963	4.50	3.01	3.28	.27
1964	4.57	3.06	3.28	.22
1965	4.64	3.10	3.34	.24
1966	5.34	3.57	3.90	.33
1967	5.82	3.89	3.99	.10
1968	6.51	4.36	4.48	.12
1969	7.36	4.93	5.73	.83
1970	8.51	5.70	6.42	.72
Average difference 1962–70				.33

Assumptions:

1. State and local governments will issue taxable bonds at corporate bond rate.

2. The net interest payable on taxable subsidized bonds will continue to average 0.33% below interest payable on tax-exempt bonds.

3. State and local governments will issue an average of $30 billion a year in bonds over next 10 years with an average maturity of 12 years.

4. Issues are repaid in installments with an average outstanding life of 6 years.

Estimated State and local benefits:	
Average annual State and local borrowing (billion)	$30
Average interest rate savings (percent)	.33
Average number of years outstanding	6
Average annual interest saving (million)	600
Benefits to U.S. Treasury:	
Average sales of taxable municipal bonds (billion)	$30
Estimated average interest rate (percent)	8
Annual interest payments (billion)	$2.4
Increased U.S. tax revenues:	
Interest on taxable bonds (billion)	$2.4
Average tax bracket of bondholder (percent)	0.42
Increased revenue (billion)	$1.008
Cost of subsidy:	
Interest on taxable bonds (billion)	$2.4
Subsidy rate (percent)	.33
Cost of subsidy (billion	$.792
Net savings, year of issue (billion)	.216
Average year outstanding	6
Net savings over life of issue (billions)	$1.296

NET ACQUISITION OF FINANCIAL ASSETS BY SELECTED INSTITUTIONAL INVESTORS

	Commercial banks	Non-bank investors (total)	Pension funds	Life insurance companies	Savings and loan associations	Mutual savings banks
1966	$20.1	$25.8	$10.1	$8.3	$4.6	$2.8
1967	39.9	34.0	10.2	8.7	9.7	5.4
1968	44.0	35.1	11.0	9.8	9.7	4.6
1969	19.7	32.7	10.9	9.2	9.5	3.1
1970	41.9	40.7	12.2	9.4	14.3	4.8
Total	165.6	168.3	54.4	45.4	47.8	20.7
5-year average	33.1	33.6	10.8	9.0	9.5	4.1

BOSTON FED SEMINAR CONSENSUS STRESSES NEED FOR MUNICIPAL BOND MARKET REFORM

BOSTON.—Thirty leading authorities on state and local finance attending a two-day seminar at the Federal Reserve Bank of Boston agreed August 31 that the Federal government should provide state and local governments with an additional method for obtaining access to the credit markets. Although persons attending the seminar represented a great variety of organizations and had a wide range of professional backgrounds, there was general agreement that the market for municipal securities was in need of major reform. They generally agreed that the present market for municipal securities would be unable to supply the funds needed by state and local governments during periods of monetary restraint in the coming decade and that the present method of state and local borrowing created serious inequities in the Federal tax system. In addition, they were concerned that many proposals for reform might bring with them increased Federal control over the capital spending decisions of state and local governments.

Seminar participants reached the following consensus:

"The Federal Government should provide State and local governments with an additional method for obtaining access to the credit markets. Specifically, the group agrees that State and local governments should have the option of issuing fully-taxable obligations (of the character presently tax exempt under the Internal Revenue Code) with the Federal Government obligated to pay to the issuer, without any restrictions, a fixed percentage of the interest cost. This percentage should be set at a level sufficient to encourage widespread use of this option."

Although the group came to a "consensus" on this issue, individual participants made it clear that their personal views did not necessarily represent the official views of their organizations.

President Frank E. Morris of the Federal Reserve Bank of Boston, who presided over the seminar, said that he was pleased that knowledgeable authorities representing such a wide range of organizations could come to a general agreement on this major public policy issue. He expressed the hope that the ideas generated at the seminar could help state and local officials, as well as the Congress, make better judgments on proposed Federal bills dealing with municipal finance. More than a

dozen such bills are now being considered by the Senate and/or the House of Representatives.

The seminar participants included the following:

Wayne Anderson, City Manager, Alexandria, Virginia.

Meg Armstrong, National Governors' Conference.

Donald Beatty, Executive Director, Municipal Finance Officers Association.

Irving Beck, Director of Interstate Relations, New England Council.

B. Alton Blackwelder, National Association of Counties.

Barry Bosworth, the Brookings Institution.

John Collins, Consulting Professor of Urban Affairs, Massachusetts Institute of Technology (former Mayor of Boston).

Robert W. Eisenmenger, Senior Vice President and Director of Research, Federal Reserve Bank of Boston.

Ronold Formes, Assistant Professor of Finance, State University of New York at Albany.

Peter Fortune, Economist, Federal Reserve Bank of Boston.

Harvey Galper, Senior Research Staff, the Urban Institute.

Richard Gabler, Senior Analyst, Advisory Commission on Intergovernmental Relations.

Peter Harkins, Executive Director, Maryland Municipal League, Inc.

Patrick Healy, Executive Vice President, National League of Cities.

Robert Huefner, Graduate Student, Harvard Business School.

Earl Mackey, Assistant Director, National Governors' Conference.

Benjamin McKeever, Assistant Council, Subcommittee on Housing, House Banking and Currency Committee.

Bruce MacLaury, President, Federal Reserve Bank of Minneapolis.

Kenneth McLean, Professional Staff Member, United States Senate Committee on Banking, Housing and Urban Affairs.

Frank Morris, President, Federal Reserve Bank of Boston.

Lawrence Naake, Western Region Representative, National Association of Counties.

David Ott, Professor of Economics, Clark University.

John Peterson, Municipal Director, Investment Bankers Association of America.

Donald Reeb, Associate Professor, State University of New York at Albany.

Edward Renshaw, Professor of Economics, State University of New York at Albany.

Sally Ronk, Economist, Drexel Firestone.

Paul Schneiderman, Economist, Board of Governors of the Federal Reserve System.

Stanley Surrey, Jeremiah Smith Jr. Professor of Law, Harvard University.

Paul Tracy, Jr., Vice President, First National City Bank.

John Thompson, Vice President, Equitable Securities, Morton & Co.

Richard Thompson, Legislative Counsel, National League of Cities and U.S. Conference of Mayors.

John Walsh, Director of Finance, City of Hartford, Connecticut.

Steven Weiss, Assistant Vice President and Economist, Federal Reserve Bank of Boston.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 76

At the request of Mr. NELSON, the Senator from Alaska (Mr. GRAVEL) was added as a consponsor of S. 76, a bill to amend the Federal Food, Drug, and Cosmetic Act, relating to food additives.

S. 1588 AND 1591

At the request of Mr. PERCY, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 1588, a bill to provide financial assistance for the construction and operation of senior citizens' community centers, and for other purposes; and S. 1591, a bill to provide certain new transportation services to elderly persons, to authorize studies and demonstration projects for the improvement of transportation services to the elderly, and for other purposes.

S. 1819

At the request of Mr. BROCK, the Senator from Nevada (Mr. BIBLE), the Senator from Florida (Mr. CHILES), the Senator from Colorado (Mr. DOMINICK) and the Senator from Illinois (Mr. PERCY) were added as cosponsors of S. 1819, a bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

S. 2614

At the request of Mr. HARRIS, the Senator from South Dakota (Mr. McGOVERN) was added as a cosponsor of S. 2614, the Concentrated Industries Act.

S. 2813

At the request of Mr. TOWER, the Senator from Georgia (Mr. GAMBRELL) and the Senator from Rhode Island (Mr. PASTORE) were added as cosponsors of S. 2813, a bill to amend the Vocational Rehabilitation Act to provide improved vocational rehabilitation services to individuals.

S. 2939

At his own request, Mr. TOWER was added as a cosponsor of S. 2939, a bill to establish a National Commission on Corrections.

S. 2943

At the request of Mr. HUMPHREY, the Senator from Kansas (Mr. DOLE) was added as a cosponsor of S. 2943, a bill to designate the Department of Health, Education, and Welfare's South Building as the "Mary Switzer Memorial Building."

S. 2992

At the request of Mr. INOUYE, his name was added as a cosponsor of S. 2992, the Guam National Seashore bill.

S. 3119

At the request of Mr. CHILES, the Senator from Florida (Mr. GURNEY) was added as a cosponsor of S. 3119, a bill to designate certain lands in the Cedar Keys National Wildlife Refuge in Florida as wilderness.

S. 3120

At the request of Mr. CHILES, the Senator from Florida (Mr. GURNEY) was added as a cosponsor of S. 3120, a bill to designate certain lands in the National Key Deer Refuge, Great White Heron National Wildlife Refuge, and the Key West National Wildlife Refuge, Monroe County, Florida, as wilderness.

S. 3137

At the request of Mr. SPONG, the Senators from Rhode Island (Mr. PASTORE and Mr. PELL) were added as cosponsors of S. 3137, a bill to amend the Safe Streets Act of 1968.

S. 3152

At the request of Mr. CHILES, the Senator from California (Mr. TUNNEY) and the Senator from New Mexico (Mr. MONTOYA) were added as cosponsors of S. 3152, a bill to provide that no interest shall be payable by a person to whom an erroneous refund is made if the erroneous refund is made due to error by an officer of employee of the United States.

S. 3163

At the request of Mr. NELSON, the Senator from Oklahoma (Mr. HARRIS) and the Senator from Alaska (Mr. GRAVEL) were added as cosponsors of S. 3163, a bill to amend the Federal Food, Drug, and Cosmetic Act, relating to food additives.

SENATE RESOLUTION 260—SUBMISSION OF A RESOLUTION RELATING TO MANAGEMENT OF NUCLEAR WASTES

(Referred to the Committee on Foreign Relations.)

RADIOACTIVE WASTE MANAGEMENT: AN INTERNATIONAL ENVIRONMENTAL CHALLENGE

Mr. PEARSON. Mr. President, recently the Chairman of the Atomic Energy Commission said the National Aeronautics and Space Administration should examine the potential cost of loading high-level radioactive wastes on space ships for transport to—and ultimate disposal upon—the surface of the sun. In an interview in the February 14, 1972, issue of U.S. News & World Report, Dr. J. R. Schlesinger of the AEC admitted that space shuttle removal of atomic wastes from man's environment is years in the future, if at all technologically or economically feasible.

Nevertheless, the fact that an official of Dr. Schlesinger's stature and station has advanced such a proposal is indicative of the incredibly complex challenge which radioactive waste management poses for the U.S. Government, and indeed, for all other nations with nuclear programs or ambitions for nuclear development.

Radioactive wastes vary widely in chemical and radiological composition, depending upon source and previous treatment. All wastes are somewhat arbitrarily classified as low-, intermediate-, and high-level in terms of activity.

This classification is based on the decontamination factor—DF—required to yield final radioisotope concentrations within the prescribed maximum levels considered safe for direct release into the environment.

Low-level wastes require a DF of no more than 10^3. Thus, wastes may be considered as low-level if they have no more than 1,000 times the level of concentration authorized for direct release. Intermediate level wastes require a DF in the range of 10^3 to 10^5. And high-level wastes are those materials which have radioactivity greater than 100,000 times the intensity considered safe for direct release into the environment.

Concentrated high-level wastes in liquid or solid form may have a DF of 10^6 or more. The incredible intensity of radioactivity in high-level wastes, combined with the long half-lives of some of the fission by-products, make them potentially lethal to man, and destructive to the environment for thousands of years.

HUTCHINSON BEDDED SALT

The AEC at this moment is seeking a site in bedded salt beneath the Kansas wheatfields for entombment of high-level waste from commercial fuel reprocessing plants. The Hutchinson bedded salt formation in central Kansas lies between groundwater aquifers which support life, and the "arbuckle" group of Cambro-Ordovician rocks containing oil, gas and salt water concentrations under intense pressure. The salt water in the arbuckle is thought to be part of an interconnected system which pervades the North American Continent.

High-level waste, if buried in the salt, must be isolated from these aquifers for thousands of years. Any penetration of the burial ground, from above or below, by man or the forces of nature, could result in irrevocable damage to the environment. Citizens of my State, quite understandably, have become concerned about the difficulties associated with isolation of high-level wastes in perpetuity.

The AEC proposed initially that a "Federal Repository" for the containment of commercial high-level wastes be established near Lyons, Kans., in a salt mine once operated by the Carey Co. The developments which have followed this proposal are a microcosm of the overall problems associated with high-level waste management.

After submission of the environmental impact statement on the proposed Lyons Repository site in June 1971, it became increasingly clear that AEC had failed adequately to consult with the Kansas scientific community, and that the proposed project raised serious questions relating to health and safety.

Despite unanswered questions on the environmental consequences of the Lyons proposal, the AEC requested authority to purchase land immediately for installation of the repository. One AEC official justified this request as necessary to insure development of the repository "as quickly as possible."

Because of the unanswered questions, Senator DOLE and I offered an amendment to the 1972 AEC authorization bill which would limit AEC to a 3-year leasehold on the Carey property. Our amendment also required that final action on establishing the site be postponed until complete safety could be affirmed by an independent advisory council. This modification was necessary, in our judgment, despite resounding assurances from AEC that "technical problems" could be worked out once the repository was in being.

The Congress adopted the Pearson-Dole amendment in substance. This action was vindicated when the AEC, in a pronounced reversal of position, announced on September 30, 1971, a halt to further development of the Lyons site. An investigation of extensive hydrofracturing, or solution mining, conducted in the immediate vicinity by the American Salt Co. revealed despite earlier assurances by the AEC that the Carey mine is an unacceptable repository for high-level radioactive wastes. The AEC has begun the tortuous search for an alternate location.

An initial study of several alternate areas—all within Kansas—has been completed by the State Geological Survey, and forwarded to the AEC.

Mr. President, I have been assured by the AEC that the Agency will not limit to Kansas its search for an appropriate Federal Repository location. The entire continental United States, I am informed, will be scanned in an effort to obtain the safest possible geological conditions for permanent burial of commercial nuclear wastes.

INITIAL FEDERAL REPOSITORY LIMITED TO COMMERCIAL WASTES

Mr. President, the proposed Federal Repository would be established to receive, and permanently seal off from the environment, all high-level wastes generated in this century through the U.S. commercial exploitation of atomic energy. Most of the waste would be generated by nuclear fuel reprocessing plants. Ultimately, the AEC estimates that 5,000,000 gallons of wastes which have been solidified would be committed to this particular repository.

It is difficult to estimate accurately the level of radioactivity which this accumulation could approach by the year 2000. It is probable, however, that radioactivity would exceed 2 billion curies. As a means of reference, one AEC official has been quoted as saying that 10 billion gallons of water are required to dilute a single curie of strontium-90 to the level current guidelines establish as safe in drinking water.

If the high-level radioactive waste generated by 20th century American commercial applications of atomic energy were the only radioactive materials requiring perpetual containment, the environmental challenge would be exacting—but perhaps manageable. Those 5,000,000 gallons of solidified waste slated for burial at the Federal Repository, however, represent only a small fraction of the total international radioactive waste management problem. I believe it will be useful to review the worldwide accumulation of high-level waste, and project that accumulation into the foreseeable future. One cannot fully comprehend the environmental hazard this accumulation poses without viewing the problem in its totality.

THE WORLDWIDE WASTE ACCUMULATION

The Atomic Energy Commission, in the development of the U.S. nuclear weapons program and in research and development on peaceful uses of atomic energy, has already generated about 40 million gallons of concentrated high-level radioactive waste. This accumulation is wholly separate and distinct from the projected high-level waste accumulation of private enterprise. Thus the AEC has on hand—at the present time—an accumulation of high-level, concentrated waste that is probably eight times greater than that accumulation projected for burial at the first Federal Repository.

Because of the prohibitive cost of packaging and transporting this AEC accumulation, now in temporary storage at various AEC facilities, the Agency is reviewing the feasibility of in situ burial in bedrock formations deep beneath the surface of the earth.

Although we cannot know, it must be assumed the Soviet Union has generated a comparable quantity of radioactive wastes in the development of its weapons and reactor programs. I understand from AEC sources that the Russians are experimenting with the disposal of wastes in deep wells.

West Germany has been experimenting with the burial of intermediate level wastes in "dome" salt formations. The AEC considers dome salt less acceptable than bedded salt. Dome formations are "moving geologically" as intense subterranean pressures thrust the salt upward toward the surface of the earth. Dome salt similar to that in Germany is found in Arizona and a few other locations in the continental United States.

The French nuclear development program has generated about 2 million gallons of concentrated high-level waste. This material is currently stored in tanks near the surface of the earth. The British have accumulated 500 thousand gallons, but have no present plans for permanent isolation of this waste from man's environment.

The following nations has each accumulated less than 1,000 gallons of high-level waste material from pilot nuclear fuel reprocessing plants: India, Italy, Spain, Brazil, and Japan.

The Euratom organization, a European cooperative effort to develop the peaceful uses of atomic energy, has on hand approximately 1 million gallons of concentrated high-level wastes.

Thus, throughout the world outside mainland China there are today in existence perhaps 83,500,000 gallons of highly concentrated, extraordinarily long-lived high-level radioactive waste materials from the development of both weapons and commercial reactor technology. All of this material is in temporary storage, with the possible exception of an unspecified amount under Soviet control which has been deposited in undisclosed, deep geological formations on an experimental basis.

This worldwide accumulation of deadly radioactive material has no economic utility, and scientists do not envision any practical use for this incredible concentration of energy in the foreseeable future. The consensus of the world scientific community is that today's stockpile of high-level wastes, along with all future accumulations, must be stored indefinitely in total isolation from the environment.

WASTE MANAGEMENT PROBLEM DEMANDS INTERNATIONAL ATTENTION

All of the development of atomic energy throughout the remainder of this century, in all probability, will not generate an additional accumulation of high-level wastes equal to that accumulation now in temporary storage. Therefore, the problem of managing radioactive wastes is an immediate one. The Atomic Energy Commission, along with its Soviet, French, and British counterparts, must develop absolutely safe procedures for the management of considerable quantities of on-hand waste. And all

nations who hope to enlist nuclear energy for peaceful purposes must develop orderly procedures for the containment and perpetual isolation of all future high-level waste accumulations.

Mr. President, the management of radioactive wastes is an unparalleled environmental challenge. Those nations which develop atomic energy have an immediate responsibility to their countrymen to insure that waste-management procedures are wholly safe. But the responsibility does not end when contemporary protection from radioactive hazards is accomplished.

Those countries whose citizens engage in the development of atomic energy have a profound responsibility to all humanity to insure that future generations are not threatened. Decisions made by governments today, in dealing with the management of high-level waste material, will affect profoundly the world environment for centuries, indeed for millennia, to come.

The problem is truly one of international significance. All humanity has a vested interest in the proper disposition of radioactive waste.

THE PRECEDENT FOR COOPERATION

Mr. President, it is a tribute to the good sense of the world community that, in the short span of years since atomic energy has been harnessed for peaceful purposes, there has emerged a degree of international cooperation in dealing with nuclear problems that transcend local or regional considerations. International cooperation in the development of nuclear technology is reflected by the increase in membership of the International Atomic Energy Agency, from 58 nations in 1957, to 102 in 1971.

The 15th IAEA Conference was held in Vienna, Austria, in September 1971. Commissioner James T. Ramey, of the U.S. Atomic Energy Commission, made the following statement before the Program, Technical, and Budget Committee:

> We also heartily endorse the plan of the Agency to have a group of consultants review the possible establishment of an international waste storage site for high-level and alpha wastes. Waste treatment, disposal and storage is a problem which is assuming ever-increasing importance and urgency . . . It seems to us that a cooperative international effort toward practical steps to help resolve this matter deserve careful consideration.

I am deeply gratified that the IAEA budget for this year includes funds for a responsible study of nuclear waste management, and for possible international cooperation in dealing with the problem.

The European Nuclear Energy Agency—ENEA—is a specialized agency of OECD, and has 16 member nations. The United States serves as an associate ENEA member. At its April 30, 1970, meeting, the ENEA Steering Committee for Nuclear Energy concluded that a review should be undertaken of policies and practices of radioactive waste management in Western Europe, both currently and in relation to the increased scope of problems which could be foreseen. A group of highly qualified specialists was chosen in a personal, rather than representative capacity, to carry out this review.

The ENEA Report on Radioactive Waste Management Policies in Western Europe was promulgated September 29, 1971.

Suffice it to say that ENEA foresees a significant growth in the commercial application of atomic energy throughout the remainder of this century. According to a report published in 1970 by Foratom on the future of reprocessing in Europe, 6,500 tons and 10,000 tons of nuclear fuel will be reprocessed in 1980 and 1988, respectively, compared to less than 2,000 tons in 1970. For the year 2000 and beyond, it should be assumed that approximately 35,000 tons of fuel will be reprocessed annually in Western Europe alone.

The problem of high-level waste management in Western Europe, the United States and the Soviet Union—from the peaceful exploitation of the atom—will increasingly become more complex as time passes. A few less developed countries may follow the lead of India and Brazil in developing a nuclear fuel reprocessing capability. Most LDC's, at the very least, will seek to establish reactor sites for power generation and other purposes.

Contributions from the LDC's to the worldwide accumulation of high-level wastes will not approach those of the advanced countries. Nevertheless, all countries which establish reactor sites will contribute to the problem, for fuel cells from all reactors must be reprocessed, either incountry or at some regional location.

ENEA is making an effort to regionalize, within Western Europe, the site-selection for burial of high-level wastes. But these efforts are in their infancy.

NEED FOR INTERNATIONAL AGREEMENT IN WASTE MANAGEMENT

There is no international agreement which prohibits or limits the disposal of high-level wastes in the ocean or atmosphere. There is no international agreement in existence which would provide for controlled proliferation of repository sites. There are no international standards which guide or regulate the selection of repository sites. There are no mandatory reporting procedures imposed upon atomic powers for the disposition of wastes. Voluntary cooperation has been excellent among most countries, but voluntary cooperation clearly will not be adequate to deal with the growing pressures of ever-increasing waste accumulations in the coming years.

Mr. President, I share completely the view expressed by the distinguished chairman of the Joint Atomic Energy Committee (Mr. PASTORE), on February 2, 1972, on the floor of the Senate. The distinguished Senator from Rhode Island observed:

> One of the big concerns of atomic energy is, "What do you do about the disposal of waste?" . . . You have to have international agreements, because this is an international problem.

AN INTERNATIONAL APPROACH TO WASTE MANAGEMENT

I am today announcing several proposed initiatives to facilitate international cooperation in the disposal of radioactive waste. These initiatives, if embraced by the Congress and the executive branch, and if accepted in good faith by the world community, would result in uniformly acceptable procedures for the containment of the radioactive hazard. These initiatives are designed to accomplish at least the following objectives:

First. To promote the development of an awareness among the leaders and citizenry of all the world of the extraordinary environmental challenge posed by the containment of high-level wastes.

Second. To enlist the assistance of concerned environmentalists from throughout the world scientific community in drafting proposed international agreements to deal with the growing waste management problem.

Third. To facilitate the selection under international auspices of the most acceptable sites, from a demographic, geologic, and tectonic standpoint, for the ultimate containment and isolation of all high-level radioactive wastes.

Fourth. To encourage the identification, on a worldwide basis, of the precise geographic locations of all repositories used for the disposal of radioactive waste materials.

Fifth. To initiate an international, cooperative research and development effort into all problems associated with the management of radioactive waste.

U.N. CONFERENCE ON THE HUMAN ENVIRONMENT

Mr. President, I propose that the United States include, as an agenda item of the 1972 U.N. Conference on the Human Environment, the international problem of high level radioactive waste management.

This Conference will be held in Stockholm, Sweden, June 5 to 16, 1972. Representatives of the governments of most U.N. member states are expected to attend. A total 1,500 delegates is anticipated. In addition, there will be 200 participants from the U.N. Secretariat Staff, and about 1,000 press representatives. U.N. member nations will meet in Stockholm to focus world opinion on the urgent physical and social problems caused by technology, industrialization, and population pressures. The Conference will be action oriented; it is hoped the Conference will result in draft-international agreements dealing with major environmental problems.

I have today written to the Honorable Maurice Strong, the U.N. Under Secretary General for Environmental Affairs, who has been designated Secretary General of the Conference. I have urged Mr. Strong to insure that international attention at the Conference is focused on radioactive waste disposal procedures and problems.

I have written the distinguished Senator from Tennessee (Mr. BAKER), chairman of the Secretary's Advisory Committee on the 1972 U.N. Conference on the Human Environment, to request that Senator BAKER's committee formally propose to the Secretary of State that radioactive waste management be the subject of appropriate study and action at the Conference.

I have also written Secretary of State

Rogers urging that his personal attention be directed to the profound environmental consequences of improper management on the part of any nation of high-level radioactive wastes.

Dedicated scientists and international civil servants of the ENEA and IAEA, along with informed Members of Congress and officials of the AEC, recognize—and have publicly stated—that international cooperation is indispensable if the world environment is to be protected fully from haphazard treatment of the waste management problem. If the 1972 U.N. Conference on the Human Environment were to focus attention on this problem, surely the position of these knowledgeable spokesmen would be strengthened.

I believe it wholly appropriate, therefore, for the United States to assume a leadership role in securing adequate Conference consideration of this profoundly significant international environmental issue.

SENATE RESOLUTION TO CONVENE AN INTERNATIONAL CONFERENCE ON THE MANAGEMENT OF NUCLEAR WASTE

Mr. President, the second initiative I announce today is the introduction of a Senate Resolution relating to the convening of an international conference to consider matters involving the management of nuclear waste.

I propose that the President invite the governments of foreign countries to participate with the Government of the United States in an international conference called for the specific purpose of negotiating and preparing a treaty relating to this urgent international problem.

Not only should an international conference on radioactive waste management deal with the perpetual isolation from the human environment of high-level waste, but it also should deal with disposal of low-level and intermediate-level waste.

I believe a treaty dealing with radioactive waste management should focus on the cumulative effect of low- and intermediate-level waste disposal within the human environment, as well as the containment and isolation of high-level wastes from the human environment. There should be a reporting requirement, at the very least, imposed upon all atomic powers, with respect to the disposal of all generated atomic waste materials, regardless of the level of radioactivity.

I sincerely hope the Senate Committee on Foreign Relations, of which I am a member, will consider this Senate resolution. There is no doubt that a greater understanding of radioactive waste management is needed in the United States. I believe that hearings before the Committee on Foreign Relations would convince most responsible observers that a treaty on this worldwide environmental problem is needed. I am convinced the President should proceed promptly to initiate an international conference relating to the environmental challenge of radioactive waste management.

Mr. President, the Senate last week ratified a treaty restricting the use of sea beds as repositories for nuclear weaponry. This treaty is a responsible initiative, and a step toward protecting the world from nuclear holocaust. Is it not equally appropriate to consider a treaty restricting the use of the sea beds as repositories for radioactive wastes? The United States, I understand, voluntarily has terminated the ocean dumping of low-level wastes. I understand ENEA has serious reservations about continuing its policy of ocean dumping. But there is no assurance that other countries, without international agreement and better understanding will voluntarily restrict ocean dumping in the interest of the environment.

I urge my colleagues to study carefully the resolution which I have today introduced. I urge my colleagues, the members of the press and the public, to consider the frightful prospect of unregulated international disposal of radioactive waste materials.

BILATERAL AGREEMENTS FOR REPOSITORY SITE SELECTION AND MONITORING

Mr. President, I propose finally that the AEC suspend all further efforts excepting research to establish a Federal repository in Kansas until geological, tectonic, and demographic conditions in cooperating countries throughout the world can be reviewed for possible repository siting.

If sites overseas could be found to provide greater environmental security, the United States should enter into bilateral negotiations with the host countries for the establishment of joint-use high-level waste repositories. Bilateral negotiations of this nature, of course, should be completely consistent with all international efforts—on a broader scale—to establish criteria for, and promote the regulation of waste management.

There is a possibility that cooperation between the United States and a foreign power for the establishment and monitoring of a joint-use repository could be achieved. The United States, of course, should be willing to compensate any foreign nation adequately for the use of its territory and facilities in radioactive waste management.

High-level wastes should not be committed to the Hutchinson salt formation, or any other domestic location, if more acceptable sites can be found abroad. All atomic powers should suspend current efforts to establish waste repositories, until such time as an adequate worldwide survey has been completed to determine the safest possible sites for perpetual waste management. The transcending environmental considerations involved demonstrate that all humanity has a stake in the disposal of high-level wastes under the safest possible conditions.

CONCLUSION

Mr. President, the central Kansas bedded salt formations lie between strata which contain immense quantities of water. They lie beneath populated regions of the American heartland, in one of the most favorable areas for human food production on this continent. Oil and gas deposits in the area have been exploited for decades, and will continue to be exploited indefinitely.

It is almost self-evident that conditions for the perpetual isolation of wastes would be safer if bedded salt—or other geologically acceptable formations—could be found in regions with less hydrological activity, less petroleum and natural gas exploitation, and less people.

Therefore, I believe in the interests of environmental security in the millennium to come, that the AEC and other national specialized agencies charged with the management problem, should be required literally to search the world for the most ideal conditions for perpetual containment of intensely radioactive wastes. There is no justification, from an environmental standpoint, to limit site selection to the territories of the nuclear powers.

I believe the initiatives which I have proposed today could be the foundation for the successful international regulation of hazardous radioactive materials.

Mr. President, I ask unanimous consent that a statement prepared by Senator BAKER, together with my resolution, be printed at this point in the RECORD.

There being no objection, the statement and resolution were ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR BAKER

Mr. President, I commend the distinguished Senator from Kansas on his thoughtful and constructive statement. The question of nuclear waste is clearly a matter of enormous importance, not solely to the people of Kansas but to the international community as a whole.

As Chairman of the Secretary of State's Advisory Committee on the United Nations Conference on the Human Environment, I offer Senator Pearson my personal assurance that I will bring this important and pressing problem to the attention of my committee. I would hope that the issue will be addressed at the Conference itself in Stockholm in June.

In any event, Senator Pearson has done us all a service by emphasizing so forcefully the international ramifications of nuclear waste disposal.

S. RES. 260

Resolved, That (a) it is the sense of the Senate that the President should invite the governments of foreign countries to convene, with the Government of the United States, a conference to appoint a commission to undertake a worldwide feasibility study to recommend sites to the conference to serve as repositories for nuclear wastes. Any site recommended by the commission should be safe for the long-term storage of nuclear wastes until such time as those wastes are harmless to the environment and should be acceptable for use as a repository site for such wastes by the country in which the site is located.

(b) It is further the sense of the Senate that, upon completion of the study and receipt of the commission's recommendations, the conference should negotiate and prepare a treaty for ratification or accession of all countries in which sites are to be located, and with countries desiring to use such sites, which would include, but not be limited to—

(1) procedures for transporting nuclear wastes to any such site, methods of storage at the site, and compensation for the use of such site; and

(2) the designation or establishment of an international agency to administer any such site in cooperation with the government in which the site is located.

Mr. PASTORE. Mr. President, the distinguished Senator from Kansas has

aptly characterized the problem of radioactive waste management as being an international problem, and I support his statesman-like efforts to initiate international discussions and dialog which can hopefully lead to international agreements on the methods to store or otherwise manage these wastes safely and practically. I therefore endorse the actions which he proposed—to include the problem as an agenda item on the 1972 U.N. Conference on Human Environment to be held in Stockholm, Sweden, in June of this year, and to convene an international conference on the subject to lay the groundwork for agreements or treaties among the nuclear nations of the world on this important subject.

Efforts have been underway for some time, both to develop the information necessary to an understanding of the problem, and to explore feasible and safe solutions. The International Atomic Energy Agency for a number of years now has conducted conferences on disposal of atomic wastes. The United States is a member of that Agency and has contributed substantially in terms of financial support as well as technical effort.

I must, however, point out that development of international agreements takes time. Our own efforts to solve these problems cannot and should not stop, pending the negotiation of these agreements.

I note that the Senator from Kansas has recognized this. Although he proposes that all future AEC efforts to establish a repository in Kansas be suspended until the international aspects of repository siting can be reviewed, he also recognizes U.S. research and development in the area could be continued.

The need for such continued development efforts cannot be overemphasized. The research and development effort of the AEC should be recognized as being more than a laboratory experimentation.

Mr. President, I suggest that any resolution passed by this body clearly and specifically recognize the need for the continuation of extensive research and development work.

ADDITIONAL COSPONSOR OF A RESOLUTION

SENATE RESOLUTION 232

At the request of Mr. CHILES, the Senator from Nevada (Mr. BIBLE) was added as a cosponsor of Senate Resolution 232, expressing the sense of the Senate that the remainder of the amount appropriated for the rural electrification program for fiscal 1972 be immediately released by the Office of Management and Budget.

ADDITIONAL COSPONSOR OF A RESOLUTION

SENATE CONCURRENT RESOLUTION 55

At the request of Mr. HOLLINGS, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of Senate Concurrent Resolution 55, relating to the recognition of Bangladesh as an independent foreign country.

EDUCATION AMENDMENTS OF 1972—AMENDMENTS

AMENDMENTS NOS. 910 AND 911

(Ordered to be printed and to lie on the table.)

Mr. ERVIN (for himself, Mr. BAKER, Mr. BENNETT, Mr. BROCK, Mr. BYRD of Virginia, Mr. EASTLAND, Mr. ELLENDER, Mr. GAMBRELL, Mr. GURNEY, Mr. HOLLINGS, Mr. JORDAN of North Carolina, Mr. LONG, Mr. MCCLELLAN, Mr. SPARKMAN, Mr. STENNIS, Mr. TALMADGE, Mr. THURMOND, and Mr. TOWER) submitted two amendments intended to be proposed by them jointly to the committee amendment offered as a substitute for the House amendment to S. 659, a bill to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, and related acts, and for other purposes.

AMENDMENT NO. 915

(Ordered to be printed and to lie on the table.)

Mr. GRIFFIN submitted an amendment intended to be proposed by him to the committee amendment in the nature of a substitute for the House amendment to S. 659, supra.

OCEAN MAMMAL PROTECTION ACT—AMENDMENT

AMENDMENT NO. 913

(Ordered to be printed and referred to the Committee on Commerce.)

WE SHOULD STOP THE KILLING OF DOLPHINS AND OTHER OCEAN MAMMALS

Mr. HUMPHREY. Mr. President, last week I submitted to the Senate Subcommittee on Oceans and Atmospheres an amendment to S. 2579, the ocean mamal protection bill which would bring an immediate halt to the senseless killing of dolphins, as well as all other ocean mammals. I also presented a statement as testimony for the subcommittee's hearings on the bill, describing the situation that prompted me to offer this amendment.

In my written testimony I singled out one group of ocean mammals for our immediate attention: the dolphins, one of the world's most highly developed creatures. Literally hundreds of thousands of dolphins and porpoises are being killed each year needlessly. This kind of senseless killing offers no particular financial gain, but it does ignore the important contributions which these mammals make to nature and to science. Moreover, were the dolphins to become extinct, we would be taking a step backward in our attempt to establish a more humane world.

My amendment would provide the necessary safeguards to stave off the rapid extinction of the dolphins and the other ocean mammals threatened with extinction. It would:

First, prohibit commercial fishing techniques which could kill or injure ocean mammals.

Second, require the executive branch to take the necessary steps to help the fishing industry make the required adjustments to protect ocean mammals.

Third, call upon the President to prohibit the importation of fish or fish products which are taken by techniques determined to be hazardous to ocean mammals.

Fourth, call upon the Secretary of State to enter immediately into negotiations for international arrangements on this question. The first step would be to prepare a draft agenda on the protection of ocean mammals for the U.N. Conference on the Human Environment, scheduled for this June in Stockholm.

Mr. President, the ocean mammal protection bill has won the attention of a large segment of the American public. What these people want is what I should think we all would want: to put a stop to the present killing of ocean mammals. In this regard, I ask unanimous consent, Mr. President, that a number of articles be printed at this point in the RECORD.

These articles point up the extent of the devastation wrought by man and the need to stop it right away. We are witnessing the gradual disappearance of all species of ocean mammals. If we fail to act now, we will have no one but ourselves to blame. The loss will be manifold.

Mr. President, I ask also that my amendment and the accompanying statement I submitted to the Subcommittee on Oceans and Atmospheres be printed in the RECORD.

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

[From Sports Illustrated, Feb. 14, 1972]

SCORECARD

(Edited by Robert W. Creamer)

MARINE DEVASTATION

In one area of the eastern Pacific Ocean in 1970 an estimated quarter of a million dolphins died after being trapped in vast nets set out by commercial tuna fishermen. The fishermen welcome the lively marine mammals, which help drive the tuna into the nets. Too bad if a thousand or so are killed when a huge net is hauled in, but what are you gonna do? The slaughter is incidental and almost casual. And it continues. Legislation introduced in Congress to halt or alter the practice is repeatedly undercut; the tuna industry is a vigorous lobbyer.

But what a pointless and disgraceful waste of a potentially invaluable animal. Dolphins have repeatedly demonstrated that they have exceptional intelligence, a natural friendliness toward man and an amazing aptitude for learning. Beyond their aid to man in fishing, they have shown that they can be trained for a variety of other uses and the U.S. Department of Defense has made extensive studies of the possibilities. The Soviet Union places such a high value on them that it has banned their killing or capture.

Killing them to catch tuna is as foolish as cutting down apple trees to pick apples. As Lewis Regenstein wrote in an illuminating report on the problem in *The Miami Herald*, "Because of the limitations of human intelligence, man may never perceive the real nature, the true significance, of these unique creatures that he is so needlessly destroying."

[From Newsweek, Sept. 6, 1971]

PITY THE POOR PORPOISE

Down through the centuries, man has either erased or pushed to the brink of extinction a number of species, notably the passenger pigeon, whooping crane, blue whale and the American bison. Now, in his quest for the tasty yellowfin tuna, man is placing a disastrously heavy strain on three different

species of small porpoises whose misfortune it is to travel the ocean currents with the big silvery fish.

Every year, using modern nylon nets and power winches, U.S. tuna fleets operating out of West Coast ports catch about 45,000 tons of tuna. Unfortunately, they also inadvertently net large numbers of spinner, spotter and white-belly porpoises along with the tuna; as many as 250,000 of these highly intelligent, legendarily entertaining mammals die in the process. Moreover, no one knows just how many more porpoises drown in the nets of French, Japanese, Spanish, Mexican and Peruvian tuna boats plying other waters, but the figure may well surpass that of the U.S. kill.

PONGO

Tuna fishermen discovered long ago that porpoises and yellowfin tuna are inseparable companions as they travel the oceans, perhaps because they both feed on the same types of small fish. Whenever a tuna boat spots a pack of porpoises and tuna, it immediately dispatches a crew on a "pongo"—a 16-foot fiber-glass craft propelled by a 105-horsepower outboard motor. Like a sheepdog turning in sheep, the fishermen use the pongo to drive the porpoises into a tight circle. And wherever the porpoises go, the tuna are sure to follow.

A second skiff, called a cork tender, follows the pongo and plays out the cork line that holds up the nylon net. Once the tuna boat has its net (typically 70 fathoms deep and 2,400 feet long) around the fish, the crew turns on a powerful winch and begins to pull the enveloping string tight. And it is usually at this point that the porpoises panic—and begin to die.

ESCAPE

The tuna fishermen bear no malice toward the porpoises and, in fact, many make a considerable effort to save the creatures from drowning inside the nets. It is not at all unusual for fishermen to jump into the water and help struggling porpoises to escape. Some captains also execute a maneuver called "backing down," in which the tension on the far end of the net is momentarily released, allowing it to sink a few feet under the weight of the trapped tuna. If the porpoises are at the far end of the net area, the dropped barrier permits some of them to escape. But the melancholy fact is that no one has yet developed an acceptable way of separating the mammals from the fish, once both are caught up in the net.

Next week, a Congressional subcommittee will conduct hearings on legislation designed to protect ocean mammals, such as the three species of porpoises. One proposed bill would completely bar the killing of any and all sea mammals. But another, to be introduced by California Rep. Glenn M. Anderson, would allow the killing of marine mammals "if the harassment, hunting, capturing or killing is incidental to commercial fishing operations." Interestingly enough, Anderson's Congressional district includes the port of Los Angeles—where many tuna boats are based.

[From the Washington Post, April 8, 1971]

PET FOOD USE POSES THREAT TO PORPOISES

LOS ANGELES, April 17 (UPI).—Porpoises, the good luck symbol of sailors for centuries, may face extinction because they make good dog food.

Kenneth Norris, professor of natural history at UCLA and director of the Oceanic Institute at the Makapuu Ocean Center in Hawaii, said Friday that porpoises may be used as a substitute for whale meat in cat and dog foods.

"Until recently the United States was the consumer of about a third of all whale products, mostly as pet food," Norris said. "Now that this has been banned . . . I'm afraid that the cat and dog food manufacturers will turn to the porpoises as a substitute for the whales."

[From the New York Times, June 22, 1971]

EXTINCTION CALLED PERIL TO PORPOISES

LOS ANGELES, (AP).—The same threat of extinction that faces the whales now also endangers porpoises, says Kenneth Norris, professor of natural history at the University of California at Los Angeles.

Professor Norris said Japanese fishermen were using huge nets to catch whole schools of porpoises at once. He fears, too, that American and other fishermen may soon get into the business of catching the sea mammals.

"Until recently the United States was the consumer of about a third of all whale products, mostly as pet food," he said. "Now that this has been banned in the U.S., I'm afraid that the cat and dog food manufacturers will turn to the porpoises as a substitute for the whales."

Professor Norris, who is director of the Oceanic Institute at the Makapuu Ocean Center in Hawaii as well, said there are about 70 species of the small-toothed whales that are called porpoises. Some of them, the killer and pilot whales, for example, are called whales but are species of porpoises.

[From the New York Times, Monday, Nov. 8, 1971]

TO KILL A COUSIN

Dolphins and porpoises are man's first cousins in the animal kingdom. Like human beings, they are warm-blooded and bear their children one at a time. Highly intelligent and capable of complex forms of communication, they have been called "the intellectuals of the sea."

Inadvertently and carelessly, men are engaged in the wholesale killing of these fascinating mammalian cousins. Dolphins act as skilled navigators for great schools of tuna, hunting out the smaller fish upon which both species feed. Fishermen have long known that where dolphins were sighted tuna were probably nearby. When long lines were used to catch tuna, this presented no problem.

But a dozen years ago, the tuna industry began the use of huge nylon nets, and this marvel of efficiency spells death for the dolphins for they too are gathered up in the net and apparently asphyxiated. An estimated 250,000 dolphins die each year in these traps. Once abundant, they have become a species endangered.

A House Merchant Marine and Fishery Subcommittee is now drafting a bill to protect dolphins and other mammals, including whales, otters, polar bears and sea lions. A one-year deadline should be imposed to make present industry practices illegal and a joint government-industry research program undertaken to devise tuna fishing techniques which will spare the dolphins. Man has eradicated many other species but to kill his own cousins only escalates ecological recklessness.

[From the Evening Star, Nov. 9, 1971]

THE ENDANGERED FRIEND

There is no animal on the face of the earth—with the possible exception of man himself—that is more universally admired by man than the dolphin. Dogs and cats have their detractors; everybody loves a dolphin.

This affection is no recent phenomenon, created by television or aquatic circuses. Admiration for the animals can be found in the writings of Aesop, 600 years before the birth of Christ. Oppian, writing in the 2nd Century A.D., called the killing of dolphins "an offense to the gods . . . as execrable as the murder of a human." For centuries, men who traveled the oceans have known the dolphin as a delightful companion who has never used his formidable teeth against man, even in self-defense. Recent studies in animal behavior and intelligence have done nothing to dim man's admiration. It is now known that dolphins can communicate verbally with one another and, to a more limited degree, with man. Their intelligence approaches that of man. Their cooperation, their willingness to learn, their gentleness clearly exceed man's.

Today the end of the long affectionate relationship between man and dolphin is in sight. Today dolphins are being killed by man at a rate that soon will push three species of the ocean mammals to the edge of extinction; the United States alone is responsible for the death of a quarter million dolphins a year. No one hunts the creatures for their flesh or their oil or their hides. The slaughter is the by-product of the yellowfin tuna catch. The dolphins are threatened with extinction because of their natural affinity for the tuna and by a recent product of man's inventive genius, the purse seine. This ingenious device can encircle an entire school of tuna. It also fences in the schools of dolphin that travel with the fish. As the seine draws tighter, the dolphins are caught, held under water and drowned.

The House subcommittee on fisheries and wildlife is now considering legislation for the protection of ocean mammals. We have previously stated our support for a controversial law that would ban the importation of all ocean mammal products into the United States. But in the matter of the dolphins, there should be no controversy. The slaughter should be halted.

American technology, which produced the purse seine, should be called upon to devise some means by which the dolphin can be excluded from its deadly grasp. Meanwhile Congress should encourage the tuna fishermen in their affection for the dolphin by setting forth—and enforcing—stiff financial penalties for the accidental killing of the gentle creatures.

It's the least we can do for a friend.

[From the Washington Post, Jan. 11, 1972]

ABUSED BY THE TUNA FISHING INDUSTRY . . . DOLPHINS AND PORPOISES FACE THREAT OF EXTINCTION

(By Lewis Regenstein)

Dolphins and porpoises are among the most intelligent and highly evolved of all the world's creatures. It is easy to see why these friendly and fascinating animals have captured the imagination and interest of a large segment of the American public, for they have become the subject of countless movies, television programs, and children's stories, as well as the star attractions at oceanariums. Unfortunately, they have also become the major victims of a new type of fishing technology invented and utilized by the U.S. tuna industry; and in recent years, over a million dolphins have been killed by U.S. tuna fishermen. As a result, schools of dolphins and porpoises are decreasing in size and numbers at an alarming rate; and several species of these animals may shortly be threatened with extinction.

There are about 80 different types of dolphins and porpoises, and they belong to the same biological family as the whales, the mammal order *cetacea*. These animals exhibit many equalities that we like to think of as "human": they are warm blooded, air-breathing mammals which nurse their young and usually bear a single calf every three to four years.

Man has traditionally enjoyed a friendly, cooperative relationship with dolphins; and in some areas such symbolic arrangements, celebrated in local folklore, still exist. Some aboriginal tribes living along the coastlines of Australia, New Zealand, and the Mediterranean have for generations utilized the help of dolphins to drive fish

into their nets. Naturalist Tom Garrett, a wildlife consultant for Friends of the Earth, has described how tribes in the Amazon basin cultivate the friendship of fresh water dolphins to protect them against such dangers as pirania fish.

Some natives reportedly refuse to enter the water without first "calling" a friendly dolphin by knocking on the side of the boat. Moreover, the countless sea legends of dolphins saving the lives of drowning people may have some scientific basis, since these animals instinctively swim under their young and buoy them up to the surface so that they will not drown during their infancy period.

The ancient Greeks had a deep and frequently awed appreciation for dolphins. Aesop, writing some 600 years B.C., made favorable references to these animals; and Oppian, in the second century A.D., called the killing of dophins "an offense to the gods . . . as execrable as the murder of a human." Pliny the Elder has described how the Greeks used dolphins to lead them to schools of fish and then shared their catch with these friendly cetaceans. According to him, the dolphins even waited in the area until the following day, to be rewarded for their efforts with bread dipped in wine.

Aristotle has written that "this creature is remarkable for the strength of its parental affection"; and females do indeed show great concern for their young, nursing them until they are about 18 months of age. This mother-young relationship lasts for several years, and dolphins 4 to 6 years old have been known to seek out their mothers from a group when they become tired, sleepy or frightened. Adult dolphins also exhibit strong protective traits towards one another; and the killing or capture of one sends a shockwave of trauma through the entire herd.

Scientific studies of dolphins have confirmed their extraordinary intellectual capabilities. The brain of the dolphin is quite convoluted, even more so than that of man. Moreover, Colin Taylor of the Port Elizabeth. South Africa, oceanarium has studied adult dolphins teaching their young and believes that the infants learn close to 1,000 "words."

The U.S. Department of Defense has also made extensive studies of dophin intelligence, primarily for such things as locating sunken ships and in anti-submarine warfare projects. (Some dolphins even developed ulcers from the strain of learning their missions!) In one such experiment, a female dolphin, using its sonar system, has learned to differentiate between copper and aluminum plate by echo ranging.

Interestingly, the Soviet Union not only studies dolphins but has also banned the killing or capture of these animals: the Minister of Fisheries, Alexander Ishkov, calls them "marine brother to man." In urging that worldwide protection be accorded these creatures, Ishkov pointed out that "the teeth of a dolphin could turn him into a dangerous enemy. But, no dolphin has ever attacked or molested a man, even in self-defense.

Yet these fascinating creatures are rapidly being wiped out, in large part by the American tuna fishing industry. The fishing practices in U.S. tuna fleets are similar to that of the ancient Greeks in that dolphins are used to locate and follow schools of tuna. However, after leading the fishermen to the tuna, the dolphins are entrapped in the tuna nets and killed. In 1970, in one area of the Eastern Tropical Pacific, between 250,000 and 400,000 dolphins are estimated to have perished in the huge "purse-seine" tuna nets which only recently came into widespread use. These nets sometimes entrap as many as 2,000 dolphins at a time along with the yellowfin tuna with which they are usually found. After being netted, the dolphins usually swim about wildly in a desperate effort to escape. They then huddle together "singing" in one corner of the net; those that instinctively "sound" or dive to the bottom usually become ensnared in the meshing and drown. Other dolphins become so frightened that they go into a state of shock and also drown. The rest make little attempt to jump out of the nets and escape, since they will not, as a rule, abandon their infants or desert a fellow dolphin that seems to be injured or in distress. The majority of dolphins killed in this manner have been females and infants, primarily of the spiner (*Stenella longirostris*), spotter (*Stevella fraffmanis*), and common dolphin (*Delphinus delphis*) species.

The result of these tuna fishing operations has been a serious reduction in the numbers and composition of the dolphin schools, and they are becoming much harder to approach than in the past. Many scientists concerned with this problem fear that the above types of dolphin may soon face a very real danger of extinction, particularly since Mexico, France, Spain and fleets operating under the Panamanian flags are increasingly turning to purse-seine technology. Moreover, with the rapidly approaching extinction of the great whales, dolphins and porpoises may well become an economically feasible (albeit temporary) substitute source for the products of the larger whales, particularly since they are already being "harvested" in such extraordinary numbers. The Japanese, for example, have already established a dolphin "fishery" and in 1970 are estimated to have "taken some 20,000 of these animals.

The powerful tuna industry has been vigorously lobbying in Congress in an attempt to exempt itself from pending legislation which would protect ocean mammals. While claiming (without convincing evidence) that new nets and techniques have been developed which will reduce dolphin mortality, the industry has been successful in obtaining legal permission to continue their wasteful fishing methods. A marine mammal "protection" bill, originally introduced by Rep. Glenn Anderson (D-Cal), whose district includes the port of Los Angeles where most of the tuna boats are based, was reported out of Rep. John Dingell's Wildlife Conservation Subcommittee in December, 1971. The act contains provisions which give the Secretary of Commerce broad discretion to allow the tuna industry to continue killing dolphins including the use of "general" or blanket permits which may be issued to the fishermen for the "taking" of these animals. Such language was reportedly insisted upon by the Nixon Commerce administration, acting through the Commerce Department and the Republican members of the subcommittee, whose senior member Rep. Thomas Pelly (R Wash.) represents a district which includes the builders of the tuna fleets as well as many Commerce Department bureaucrats based in Seattle.

Representative David Pryor (D-Ark.) and other congressmen plan to offer strenthening amendments to this bill when it comes up for a vote this month or next. However, the Senate has not yet taken any action on the ocean mammal legislation pending before it; and Senator Ernest Hollings (D. S.C.) subcommittee of the Commerce Committee has so far refused to even schedule hearings on these bills. In the meantime, several conservation groups are threatening to launch a boycott of tuna products unless the industry takes immediate steps to solve the problem.

Because of the limitations of human intelligence, man may never perceive the real nature, the true significance, of these unique creatures that he is so needlessly destroying. A hint of this vast and untapped wealth of knowledge is contained in the writings of a Russian delphinologist, Professor Yablakov:

"Dolphin societies are extraordinarily complex, and up to 10 generations coexist at one time. If that were the case with man, Leonardo Da Vinci, Faraday, and Einstein would still be alive . . . Could not the dolphin's brain contain an amount of information, comparable in volume to the thousands of tons of books in our libraries?"

Dolphins play an integral if little understood role in the health and stability of the oceans' ecology—ecosystems that are fundamental to the survival of man's own environment. If we allow shellfish men to destroy or alienate the dolphin before we have had a chance to learn what it can teach us, then we will compound the inherent evil of human nature with a foolishness which may, in the end, hasten our own doom.

AMENDMENT No. 913

On page 3, after line 21, insert the following:

(c) (1) After the expiration of one year beginning on the date of the enactment of this Act, it shall be unlawful to use, on or in connection with any commercial fishing vessel subject to the jurisdictions of the United States, any means or methods of fishing whereby any ocean mammal could be injured or killed in the course of or incidental to commercial fishing operations.

(2) The Secretary of Interior, after consultation with the other Secretaries named in section 206, shall issue regulations to effectuate the purposes of pargaraph (1) and to reduce, and eventually eliminate, the injuring or killing of ocean mammals as a result of commercial fishing operations. Such regulations shall include prohibitions against purseseine nets and other nets and fishing techniques which have been found to be hazardous to ocean mammals.

(3) The Secretary of Interior shall assist the United States commercial fishing industry in changing over to safer fishing techniques as required by this subsection (A) by providing observers to the fleet to monitor and help suggest newer and safer nets and techniques, (B) by making grants and/or loans to United States fishing companies to help in this transition, and (C) by such other ways and means as he determines which will carry out the purposes of this subsection, but which will help the United States commercial fishing operations remain competitive with foreign fishing operations.

(4) The President shall prohibit the importation into the United States of fish or fish products if it is determined that in the taking of such fish means or method of fishing were used which have been found to be hazardous to ocean mammals.

(5) The Secretary of State shall negotiate immediately with all foreign governments which are engaged in, or which have persons or companies engaged in, commercial fishing operations which are endangering ocean mammals for the purpose of entering into multi-lateral treaties with these countries to ban thhe purse-seine nets and any other nets, techniques, or devices found to be hazardous to ocean mammals. The Secretary of State shall prepare a draft agenda relating to this matter for discussion and agreement at the United Nations Conference on the Human Environment in Stockholm, Sweden, June 1972.

PROTECTION OF MARINE MAMMALS

(Statement of Senator HUBERT H. HUMPHREY)

Mr. Chairman. It is indeed a pleasure to present testimony before this distinguished Committee on the matter before you today. I commend you for holding these hearings and for your attempt to find the best way to protect what are probably the most intelligent, friendly and highly-evolved of all animals, the mammals of the sea.

All species of ocean mammals—without exception—are rapidly disappearing. Most are very depleted or are near extinction; all are experiencing slaughter and suffering at the hands of man.

I am particularly alarmed that our State

Department has for several years been negotiating in secret a convention to the Antarctic treaty which would allow signatory nations to kill 225,000 seals annually. This is the last remaining relatively untouched area in the world; it is, in the words of a New New York Times editorial of 6 February 1972, "a vast untouched observatory the world cannot afford to lose, the one continent left where man can still walk unfeared by his fellow creatures."

Our own Government is thus acquiescing in the ecological destruction of this pristine area. We have all been shocked by pictures and accounts of baby seals being clubbed to death.

Now that the seal herds of the Northern Hemisphere are on the verge of being wiped out, it is inexcusable that we are cooperating in the transfer of this slaughter to the Southern Hemiphere.

The American public has made clear its feelings; it wants us to put a stop to the present killing of ocean mammals that is taking place, and prevent future slaughter from commencing. I hope that in your deliberations over the next few weeks you will report out a strong, tough bill which will do just that.

As a co-sponsor of the Harris-Pryor Ocean Mammal Protection Act (S. 2579, the amended version of S. 1315), I urge that favorable consideration be given to this vital bill which would be a major step forward in halting the senseless killing of seals, whales, dolphins, porpoises, sea otters, polar bears, and other mammals of the sea.

This bill is co-sponsored by 26 Senators—over the one quarter of the Senate—and about 100 members of the House. It has been endorsed by all of the major newspapers in the Washington, D.C. area—The Post, The Evening Star, and The Daily News—as well as many others nationwide including the New York Times and the Louisville (Kentucky) Courier-Journal. In hearings held in September of last year before a subcommittee of the House Merchant Marine and Fisheries Committee, the Harris-Pryor Bill was strongly supported by such prestigious conservation, humane, and environmental organization as The Fund for Animals, Friends and the Earth, The Humane Society of the United States, The Sierra Club, Friends of Animals, The Committee for Humane Legislation, The National Parks and Conservation Association, The World Federation for the Protection of Animals, The International Fund for Animal Welfare, and many other recognized and responsible groups. Such eminent scientists as Oceanographer Jacques Cousteau and anthropologist Ashley Montagu have also come out in favor of the bill. Congressman Edward Garmatz, Chairman of the Merchant Marine and Fisheries Committee, stated at his hearings that, in his 25 years in Congress, he had never before seen such public interest in an issue. Other Congressmen and Senators report that they have received literally tens of thousands of letters in support of the Ocean Mammal Protection Act, with many stating that the flood of mail has been "unprecedented."

I realize that there are other worthy bills under consideration by this subcommittee; but I hope that the final bill reported out will—at a bare minimum—contain the following provisions: (1) A ban or moratorium of at least ten years on the killing of ocean mammals, except for treaty obligations and non-wasteful native hunting; (2) A total ban on the import into this country of all ocean mammal products, thereby removing much of the economic incentive for their slaughter; (3) language instructing the Secretary of State to negotiate with other countries treaties to protect marine mammals; (4) The responsibility for protecting marine mammals given to the Department of Interior.

In the area of ocean mammal protection, there is one problem that is of such magnitude and importance that it requires special attention. This concerns the fact that literally hundreds of thousands of dolphins are being killed each year in the huge nets that have recently come into widespread use by the tuna industry. In 1970, in one area of the Eastern Pacific, between 250,000 and 400,000 dolphins are estimated to have perished in the huge "purse-seine" tuna nets. Worldwide, the annual mortality probably exceeds a million. As a result of this new technology employed by the tuna industry, several species of dolphins are rapidly approaching extinction.

This tragedy is compounded by the fact that dolphins are justly noted for their extraordinary intelligence, their love for each other, and their seeming friendliness towards man. Dolphins in captivity have been taught extremely complex tasks, and some have even learned to mimic the human voice.

The legendary episodes of dolphins saving the lives of drowning swimmers or sailors may in fact have some scientific basis, since these animals instinctively swim under their young and buoy them to the surface so that they will not drown during their infance. The ancient Greeks had a deep appreciation for dolphins; and after using them to locate schools of fish, they would share their catch with these friendly and cooperative cetaceans.

The scientific value of dolphins is inestimable, and we have much to learn from these fascinating creatures. The dolphins that are frequently seen swimming just ahead of the bow of a ship are actually "hitching a ride" on the ship's forward compression wave, much as a surfer's board is carried along by a wave. The brain of the dolphin is quite convoluted, even more so than that of man. Studies of adult dolphins teaching their young indicate that the infants learn close to 1,000 "words". The U.S. Department of Defense has made extensive studies of dolphin behavior, and these have confirmed their extraordinary intellectual capabilities. In one experiment, a female dolphin, using its sonar system, has learned to differentiate between copper and aluminum plates by echo ranging. This is the phenomenon by which dolphins emit ultrasonic, high-pitched sounds for navigating under water and locating food. By moving its head from side to side, it can locate objects long distances away by means of the returning "echo". One dolphin used in experiments by Navy would willingly allow itself to have suction cups placed over its eyes, after which it could still swim easily about without bumping into obstacles. Another trained dolphin was used by the Naval aquanauts, who spent several weeks at the bottom of the sea, to carry materials and supplies to and from the surface.

Because of the limitations of human intelligence, man may never perceive the real nature, the true significance, of these unique creatures that he is so needlessly destroying. But a hint of this vast and untapped wealth of knowledge is contained in the writings of a Russian delphinologist, Professor Yablakov:

"Dolphin societies are extraordinarily complex, and up to ten generations coexist at one time. If that were the case with man, Leonardo Da Vinci, Faraday, and Einstein would still be alive. . . . Could not the dolphin's brain contain an amount of information comparable in volume to the thousands of tons of books in our libraries?"

Dolphins play an integral if little understood role in the health and stability of the oceans' ecology—ecosystems that are fundamental to the survival of man's own environment.

If we allow selfish men to destroy or alienate the dolphin before we have had a chance to learn what it can teach us, then we will compound the inherent evil of human nature with a foolishness which may, in the end, hasten our own doom.

I am therefore offering an amendment to S. 2579 which is intended to specifically address and hopefully solve this problem. My amendment would set stringent guidelines on the use of tuna nets that can be used and provide strict prohibitions against the killing of dolphins after a reasonable period of time. The cost of changing over to new nets and fishing methods and the funding for the necessary research would be borne entirely by the Federal Government so as not to cause any economic hardship for our tuna fishermen.

At the same time, in order that the U.S. tuna fleet not be put at a disadvantage with foreign competitors, imports of tuna from countries which use destructive fishing techniques would be banned.

My amendment also calls upon the State Department to negotiate with other tuna fishing nations a ban on the use of nets which are injurious to dolphins. Furthermore, the U.S. delegation to the June 1972 United Nations Conference on the Environment to be held in Stockholm would be instructed to seek an end to the killing of all cetaceans—whales, dolphins, porpoises. Most of the larger cetaceans are at or nearing extinction; and it is no exaggeration to say that this may be one of our last chances to save these unique and extremely valuable creatures.

It is imperative that we deal with the dolphin problem in a meaningful way, particularly since the House Merchant Marine and Fisheries Committee has reported out a marine mammal bill which does not adequately deal with this situation or provide sufficient protection to the dolphins. This bill, H.R. 10420, contains a provision which allows the Secretary of Commerce to issue blanket (or "general") permits to the tuna fishermen for the continued killing of unlimited numbers of dolphins which occurs "incidental" to tuna netting operations. It is therefore up to the Senate to correct the shortcomings in this legislation and make the final bill agreed upon by Congress an effective one.

I realize that this committee is under strong pressure to allow exemptions, however, there is no species of ocean mammal that has captured the imagination and interest of the American public as has the dolphin. It has become the subject of countless movies, television programs, and children's stories; the prime attraction at oceanariums; and even the symbol of a championship football team, the Miami dolphins. Editorials in the New York Times, the Washington Post, the Washington Evening Star, and the Miami Herald have made moving and eloquent pleas that Congress save the dolphins from the massive slaughter they are now facing. I would like to enclose for the record these and other articles as an indication of the extent of public concern with this problem.

Gentlemen, we can no longer plead innocence. Reassuring language and lip servvice to the principles of conservation will no longer suffice. If we fail in this endeavor to stop the killing of the dolphins before it is too late to save them, we will have to answer not only to our own constituents but future generations as well.

MILITARY PROCUREMENT AUTHORIZATIONS, 1973—AMENDMENT

AMENDMENT NO. 914

(Ordered to be printed and referred to the Committee on Armed Services.)

TO HALT INDUCTIONS

Mr. HATFIELD. Mr. President, I send to the desk an amendment to the Military

Procurement Act of 1972 and ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

Mr. President, last year the Selective Service Act expired and the Congress debated its extension for 5 months, finally deciding to extend the President's authority to induct men into the Armed Forces for 2 more years. During the debate in the Senate we heard dire predictions of the consequences if this authority were not granted the President—consequences of a grave nature, threatening our Nation's security and the security of our allies. Once the President had regained the draft authority, 10,800 men were drafted during the last 3 months of the year. Secretary Laird has announced that there will not be any draft calls during the first 3 months of this year, leaving the 3 months remaining in fiscal year 1972 in doubt as well. Consequently, in submitting this amendment, I will not examine the moral, political, or foreign policy aspects of the draft. Rather, I will focus only on the general question of manpower for our active duty forces and examine other aspects of the issue at a later date.

The President's fiscal year 1973 budget projects a requirement for 26,700 inductions in fiscal year 1972, indicating that perhaps as many as 15,900 men remain to be drafted during the months of April. May, and June.

There is reason to suspect, however, that draft calls for these 3 months of this fiscal year will be significantly lower than projected in the budget, and the strong possibility that there will not be any at all. One of the reasons for this assertion is the announcement by the Selective Service that the 10,000 men who were served induction notices at the beginning of the year were having those orders rescinded and would not be drafted.

Be that as it may, the Defense Department indicates that a shortfall of 160,000 could have been expected in fiscal year 1972 if the draft did not exist during that time. Of these, 26,700 would have been draftees, and it must be assumed that the remainder would have been draft induced volunteers—men who would not have enlisted in the military had it not been for the threat of being inducted. The most current data indicate that 30 percent of the men entering the Armed Forces between July and December 1971 were draft induced. Prior to that time, the ratio varied between approximately 45 and 35 percent. This figure, 30 percent, is probably decreasing as time progresses.

The pay increases which were passed by Congress last year is one of the reasons. Another reason is the decreasing manpower requirements in our Armed Forces due to lower total force levels, as well as the decreasing need of men to fight in Southeast Asia. A fourth reason is the policy changes within the Department of Defense are geared to attract volunteers. Indication of this progress is the lack of draft calls during the first 3 months of this calendar year and the rescinding of the induction orders for 10,000 men earlier this month.

Nevertheless, assuming the Defense Department's projected shortfall of 160,000 for fiscal 1972—this assumes a 70 percent true volunteer ratio for the remainder of the fiscal year—with a total accession requirement of 485,000 to maintain our active strength levels, 325,000 men can be said to have entered the Armed Forces during this fiscal year without, or inspite of, the threat of the draft. This means that our total end strength for the year would be approximately 2,231,800 rather than the projected 2,391,800.

In spite of the dubious nature of some of the assumptions within these projections, it cannot be forcefully argued that our security would be jeopardized at all if we had "only" 2.23 million men in our Armed Forces. Nor can it be argued that the quality of our forces would subvert our security, because we do not depend on the draft, either directly or indirectly, through threat of induction, to provide the more vital skills and talent to maintain our complex weapons systems.

Men are drafted for only 2 years and cannot be adequately trained or acquire the necessary experience in this short period of time to adequately perform in a job of this nature. This would be generally true for draft induced volunteers, as well. The security of our country and our national defense is not dependent upon 160,000 draftees and draft induced volunteers who are enlisted for between 18 months and 4 years. This is all the more poignantly clear in view of our decreasing military role on the ground in Southeast Asia.

Consequently, Mr. President, the Congress could well have refused to extend the President's authority to induct men into the Armed Forces last year and not jeopardize our national security. Most of this shortfall would have occurred in the Army in that virtually all of the inductees over the past quarter century have bene drafted into the Army and most of the draft induced volunteers look to the branch which has the shortest tours of duty, the Army.

Looking at these figures more closely, however, would lead one to view these projections rather skeptically. The Defense Department projects that during this fiscal year, 388,000 will voluntarily enlist, none of whom are draft motivated. It further projects that roughly 190,000 men will reenlist during fiscal year 1972. These two combined equal 578,000 truly voluntary accessions during this fiscal year out of a total requirement of 485,000. This data would indicate that there would be 93,000 men volunteering to enter the Armed Forces who would have to be turned down even if there were no draft or threat of draft. Even more interesting is the fact that 10,800 men were drafted during the second quarter. Therefore, we will have to turn down perhaps as many as 103,000 qualified volunteers. On the basis of this data, Secretary Laird's announcement of no inductions during the third quarter and the rescinding of induction notices by Selective Service are easily understandable.

Mr. President, I would like to repeat this for the record. If this body had decided not to extend the President's authority to induct men into the Armed Forces, we may well have experienced 93,000 more volunteers than needed during fiscal year 1972. And because of the draft, we may well be turning away volunteers this fiscal year.

This data points up another aspect of the entire question of manpower recruitment methods. Last year during the draft debate, I occasionally referred to the numbers game being played. At times there were five different sets of data dealing with the same question, all of them leading to different conclusions. I hesitate to accuse any agency of intentionally creating confusion by such tactics. I prefer, rather, to think that it is more a question of method, namely, using different mathematical models and formulas involving varying assumptions which render different and sometimes contradictory results. It is a problem of consistency, or the lack thereof, more than anything else. Consequently, we find ourselves, as we do today, with an anticipated overflow for fiscal year 1972, assuming no draft, of 93,000, or a shortfall of 160,000—a variance of 253,000.

Because of my views on this issue, I would prefer to believe the overflow figure of 93,000. But whatever the choice one chooses to make on this, 253,000 man spectrum, it is perfectly clear that without a draft during fiscal year 1972, our Armed Forces would have maintained adequate strength and our security would not have been jeopardized.

Let us now turn to fiscal year 1973. The end strength for this next fiscal year is 2.358 million men. The Defense Department tells us that if the draft were suspended at the end of fiscal year 1972, it would be expected that a shortfall of perhaps as many as 150,000 would result, although they admit that this would be a highly pessimistic projection. Nevertheless, this would mean that our end strength would be approximately 2.208 million men at the end of fiscal year 1973. Again, as I stated earlier, these shortfalls would occur mostly in the noncritical areas in the Army where our end strengths for fiscal year 1973 would be roughly 691,000 in contrast to the aimed for 841,000.

Our experience with the fiscal year 1972 data, can shed another light on this matter. One approach would be to assume the 253,000 variance that we experienced with the 1972 data. This would mean that we might anticipate 103,000 more volunteers than we need during the next fiscal year—150,000 most skeptical shortfall minus the 253,000 variance. Or we might consider the fact that the Defense Department anticipates roughly 210,000 reenlistments during fiscal year 1973. We could merely combine them with the true volunteer figure of fiscal year 1972—388,000—which would be an assumption on the very low side, considering, among other things the fact that the pay raises were in effect for only one half of that year, and we come up with 598,000 voluntary accessions during fiscal year 1973—or 48,000 more volunteers than needed. The Defense Department tells us that approximately 550,000 accessions will be required during fiscal year 1973.

Consequently, we come up with the

parameters for fiscal year 1973 of a shortfall of 150,000 to 103,000 overflow of volunteers—a 253,000 man variance. Yet, I contend that whatever the variance and the 103,000 seems more likely to me, our security would not be jeopardized in any way if the draft did not exist during fiscal year 1973.

Mr. President, there are other aspects of this question which need to be fully examined and articulated before an informed judgment on the amendment I am introducing today can be made. These areas will be the subject of subsequent statements on the floor within the next few weeks. The remarks I have made today, however, form the general outline of the reasoning behind my introducing legislation today to stop the draft at the end of fiscal year 1972, June 30, 1972.

I would like to make one final comment. The sole source of the data used in examining the manpower question in the statement I have made today is contained in a letter from the Defense Department which I received in response to an inquiry made earlier this year. The assistance I have received and the rapid response from the Department of Defense is highly laudatory and deeply appreciated.

Mr. President, I ask unanimous consent that amendment No. 914 to the Military Procurement Authorizations Act of 1973 be printed at this point in the RECORD.

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

On page 6, after line 20, add the following new section:

SEC. 502. Section 17(c) of the Military Selective Service Act is amended by striking out "July 1, 1973" and inserting in lieu thereof "July 1, 1972".

Mr. President, I ask unanimous consent that the Department's letter be printed in the RECORD at the conclusion of my remarks.

There being no objection, the letter and amendment were ordered to be printed in the RECORD, as follows:

ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C., February 7, 1972.

Hon. MARK O. HATFIELD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HATFIELD: This is in response to your letter of January 14, 1972, which requests information concerning military personnel accessions, reenlistments, and strengths.

1. Inductions each month during the last year—1971:

Calendar year 1971 inductions by month (In thousands)

January	20.8
February	19.6
March	13.6
April	9.7
May	12.3
June	8.0
July	0
August	0
September	0
October	.6
November	7.7
December	2.5

2. Total number of inductions for 1972, fiscal year and calendar year:

The Services' manpower programs submitted with the President's Fiscal Year 1973 budget project a requirement for 26,700 inductions in Fiscal Year 1972 and 30,900 inductions in calendar year 1972. These estimates are tentative and assume that we have good response to the recent improvement in military/civilian pay relationships and the Services' intensified recruiting efforts.

3. End Strengths for end FY 1972 and FY 1973:

The end strengths projected in the President's FY 1973 budget are, in thousands:

Year	Total DOD	Army	Navy	Marine Corps	Air Force
1972	2,391.8	861.2	602.2	198.0	730.4
1973	2,358.0	841.2	601.7	198.0	717.2

4. Total volunteer enlistments for Fiscal Year, 1971, by month for Fiscal Year 1972, using the most recent information:

NONPRIOR SERVICE MALE CHARGEABLE ENLISTMENTS BY SERVICE FISCAL YEAR 1971, FISCAL YEAR 1972 MONTHLY

[In thousands]

	Total	Army	Navy	Marine Corps	Air Force
Fiscal year 1971 total	367.1	146.0	75.5	54.6	91.0
Fiscal year 1972:					
July 1971	35.0	13.3	8.1	5.0	8.6
August 1971	38.9	14.4	10.1	5.2	9.3
September 1971	38.3	16.3	7.9	4.9	9.2
October 1971	30.7	10.4	7.6	4.2	8.5
November 1971	25.5	9.6	6.1	3.5	6.3
December 1971	25.3	12.1	4.5	3.2	5.5

5. Total enlistments, for each month in FY 1972:

Actual data for the past six months are shown above. Planning estimates for the balance of FY 1972 are as follows.

PROJECTED NPS MALE ENLISTMENTS BY SERVICE BY MONTH, JANUARY-JUNE 1972

	Total DOD	Army	Navy	Marine Corps	Air Force
January 1972	35.1	14.5	9.7	4.7	6.2
February	32.5	14.6	9.0	4.3	4.6
March	30.2	14.6	7.0	4.1	4.5
April	27.8	12.6	6.6	4.0	4.6
May	27.7	10.7	7.0	4.1	5.9
June	41.0	20.1	9.0	5.2	6.7

6. Total enlistments into the Combat Arms for fiscal year 1972 by month, (most recent to date):

Army has reported the following number of combat arms enlistments in Fiscal Year 1972:

July	3,687
August	3,643
September	3,883
October	1,911
November	2,333
December	3,072

7. Fiscal years 1972 and 1973 total requirements for the combat arms:

Army currently estimates the FY 1972 requirement for combat arms at 66,000. This total is above previous estimates because of the need to replace personnel separated early as a result of the reprogramming caused by the 50,000 manyear reduction imposed by the Congress. Firm FY 73 estimates are not available at this time because of the uncertain effects of early release policies occasioned by the Congressional manyear ceiling. The FY 1973 requirements are likely to be somewhat lower than FY 1972.

8. Total accessions for the Department of Defense for FY 1972 and FY 1973.

Total Active and Reserve Components requirements for new non-prior service male and female officer and enlisted personnel are estimated to be about 660,000-665,000 in both FY 1972 (485,000 Active and 175,000 Reserve) and FY 1973 (550,000 Active and 115,000 Reserve).

9. Anticipated shortfalls for FY 1972 and 1973 if the draft is suspended.

We are not certain as to the extent of the shortfalls that could be expected in FY 1972 and FY 1973 if the draft were to be suspended. Our analysis of enlistments from July-December 1971 when the total draft was only 10,000 reveals that about 70% of the enlistees who entered were true volunteers and about 30% were draft motivated. If this proportion continued through the end of June 1972 about 160,000 men will have entered enlisted ranks in Fiscal Year 1972 either because they were drafted or because they were motivated by the draft. The Reserve Forces report they are currently falling behind in their recruiting efforts and a suspension of the draft would aggravate an already serious condition.

Our estimate for FY 1973, based on a suspension of the draft, assumes that no draft-motivated enlistees would enter Service. In this case shortfalls could be as high as 150,000. This however, is probably the worst case. With continuance of the draft authority and low draft calls, some draft motivated enlistees would enter Service. It is still too early to determine the number of additional enlistments which will result from the pay raise which was effective November 15, 1971. A number of actions, in addition to pay, were begun in FY 1972 to increase Service attractiveness and recruiting capability in order to move to a volunteer force. The full effect of these actions is not yet known. A better forecast of recruiting potential in the absence of the draft under present pay and other incentives, can be made after the results of the good recruiting months, June-September, are available. On the basis of evidence to date the draft and draft motivated enlistments will continue to be needed through the FY 1973 time period.

10. Reenlistments in fiscal years 1971, 1972 and 1973:

The total number of regular and inductee reenlistment actions reported for fiscal year 1971 was 205,000. Preliminary projections are for 190,000 in FY 1972 and 210,000 in FY 1973.

11. Number of Blacks enlisting and reenlisting for FY '71, '72 and '73:

The number of Non-Caucasian enlistees (about 90% of whom are Black) in FY 1971 for the Active Forces was 45,900.

The number of Blacks who reenlisted in FY 1971 was 26,200.

We estimate that the FY 1972 and FY 1973 totals will be at approximately the same level for both enlistments and reenlistments.

Sincerely,

ROBERT C. TABER,
Lieutenant General, U.S. Army, Acting Assistant Secretary of Defense (Manpower and Reserve Affairs).

NOTICE OF HEARINGS ON EFFECTS OF CORPORATE GIANTISM AND CORPORATE SECRECY ON RURAL AND SMALL-TOWN AMERICA

Mr. NELSON. Mr. President, the Subcommittee on Monopoly of the Select Committee on Small Business, on March 1 and 2, 1972, will continue its hearings on the role of giant corporations in the American and world economies. The hearings will be in room 318 of the Old Senate Office Building and will begin at 10 a.m. each day. These hearings will be the third and fourth sessions of part 3 of the corporate giantism study, which is currently examining corporate secrecy. In part 3, the subcommittee is considering the role of giant corporations in

farming, and the effects on small business, small towns, and the family farm of corporate giantism and corporate secrecy in agriculture.

On March 1, the subcommittee will receive testimony from Dr. Walter R. Goldschmidt, professor of anthropology, University of California at Los Angeles; Dr. Philip M. Raup, professor of agricultural economics, University of Minnesota; Dr. Eugene A. Wilkening, professor of rural sociology, The University of Wisconsin; and Mr. Richard D. Rodefeld, instructor in sociology, Michigan State University.

On March 2, the subcommittee will receive testimony from witnesses representing the National Coalition for Land Reform—NCLR—San Francisco; the National Council of Agricultural Employers—NCAE—Washington; and the National Federation of Independent Business—NFIB—San Mateo, Calif. The NCLR's testimony will be presented by its general counsel, Mr. Sheldon Greene. Mr. Richard V. Thornton, executive vice president, will present the statement of NCAE. The NFIB's testimony will be presented by Mr. Ed Wimmer, vice president, public relations.

The testimony on both days will be focused primarily on the economic, social, and cultural effects in small-town and rural America, of the activities of large, diversified and integrated corporations in farming.

Those who have been especially interested in this subject will recall that Professor Goldschmidt, in the mid-1940's, made a famous study of two rural towns in California, Arvin and Dinuba. One town, Arvin, was surrounded by large and predominantly industrial farms, the others, Dinuba, by much smaller and predominantly family farms. The object of the study was to measure, quantitatively and qualitatively, the economic, social and cultural attributes of the two towns and to ascertain whether any differences that might be found were related to the differences in the types of farms that surrounded the two communities. The conclusion of the study, in a nutshell, was that Dinuba was much the superior town in all respects, and its superiority was related to the type of farming that formed its economic base.

Not surprisingly, the study was a subject of controversy both during its making and after its results were written. In fact, the Goldschmidt report became "too hot to handle" in the view of the very agency that had commissioned it, the Bureau of Agricultural Economics of the U.S. Department of Agriculture. The BAE decided not to publish it; however, a copy was obtained by the Senate Special Committee To Study Problems of American Small Business, predecessor to the present Select Committee on Small Business. Senator James E. Murray of Montana, chairman of the committee, determined to publish the report and it duly appeared on December 23, 1946, under the title "Small Business and the Community: A Study in Central Valley of California on Effects of Scale of Farm Operations," Senate Committee Print No. 13, 79th Congress, second session.

Dr. Goldschmidt's report remains to this day a fascinating, much-read, much-discussed, important—and still controversial—document.

At the hearing on March 1, Professor Goldschmidt will share with the Subcommittee on Monopoly his reminiscences of the making and reporting of the Arvin-Dinuba study. Then, with the other three witnesses, all of whom have admired and used his report, he will make suggestions for retesting, augmenting and updating the significant findings and conclusions it contains.

The witnesses on March 2 will also be discussing the effects—the social and economic benefits and costs—of corporate giantism and corporate secrecy on small-town and rural America. However, they will speak from the perspective of the members of their organizations today, rather than from the perspective of an anthropologist's study completed more than a quarter of a century ago.

ANNOUNCEMENT OF HEARINGS ON S. 1819, AN AMENDMENT TO THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970 (PUBLIC LAW 91-646)

Mr. CHILES. Mr. President, on February 24, the Subcommittee on Intergovernmental Relations, Committee on Government Operations, will hold a hearing on S. 1819, a bill introduced earlier this session by Senators BAKER and BROCK to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

Under present law, the Federal Government would continue to pay 100 percent of the first $25,000 of any single payment required by the act only until July 1, 1972. After that date, unless the act is amended, the States would be required to share relocation costs on a matching funds basis, sharing relocation costs with the Federal Government on the same basis that other project costs are shared.

It is the purpose of S. 1819 to extend indefinitely the period in which the Federal Government would pay 100 percent of the first $25,000.

The hearing will be held in room 3302, New Senate Office Building, beginning at 10 a.m.

Any Member of Congress or other person wishing to file a statement with respect to the proposed legislation should notify Mrs. Lucinda T. Dennis, chief clerk of the subcommittee. She can be reached by calling 225-4718.

ANNOUNCEMENT OF HEARINGS BY SUBCOMMITTEE ON AGING

Mr. EAGLETON. Mr. President, a major responsibility of the Subcommittee on Aging of the Committee on Labor and Public Welfare in the coming months will be the development of legislation to extend or supplant the Older Americans Act, which expires on June 30, 1972. To this end, I wish to announce that hearings on the Older Americans Act will begin on March 1, 1972, in Kansas City, Mo. We expect to continue these hearings in Washington thereafter on a date that will be announced as soon as possible.

In the last session of Congress, the Subcommittee on Aging conducted hearings on several bills to coordinate and greatly expand research activities in the field of aging. Leading scientists in this field are confident that great progress could be made if our research efforts were expanded and improved. In this connection, I ask unanimous consent that an article that appeared in the New York Times of October 24, 1971, by Walter Sullivan, a distinguished science writer, be inserted in the RECORD at the conclusion of my remarks.

The subcommittee was unfortunately unable at our earlier hearings to obtain the testimony of a number of distinguished authorities in this field, many of whom are located on the west coast. For this reason, the subcommittee will conduct additional hearings on this subject in San Francisco and Los Angeles on March 3 and March 4, respectively. The ranking majority member of the subcommittee, the distinguished senior Senator from California (Mr. CRANSTON) has graciously agreed to act as chairman for the purpose of conducting these hearings.

Bills to be considered at the California hearings are S. 887 (Mr. EAGLETON), S. 1925 (Mr. WILLIAMS), and S. 2934 (Mr. Moss). The March 3 hearing will be in the board of supervisors hearing room at McAllister and Polk Streets in San Francisco and the March 4 hearing will be in the West Los Angeles Federal Building, 13320 Wilshire Boulevard.

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

THE ETERNAL QUEST FOR ETERNAL YOUTH

(By Walter Sullivan)

To be beloved of a goddess is not always a fate to be desired. Tithonus, in Greek mythology, was sought after by Aurora, goddess of the Dawn, who persuaded Jupiter to make him immortal. However, she neglected to specify that he should also remain young. Tithonus became gray. His limbs weakened until he could no longer move and the goddess shut him into his room, from which his feeble cries could be heard. Finally, tiring of this, she turned him into a grasshopper.

Today an ever larger proportion of Americans share the problems, if not the final fate, of Tithonus. They live longer, but the added years are little enjoyed. Thus about 10 per cent of Americans are now older than 65—and 86 per cent of them suffer from one or more chronic diseases. Two out of every three dollars spent on Federal health care go to support them.

Because of this financial burden, because of this increasing body of human misery, and because of dramatic advances in understanding of the life process, the study of aging is rapidly moving to the forefront of medical research. Next week, at the meeting of the Gerontological Society in Houston, a number of remarkable discoveries in the field will be discussed. Next month a White House conference on aging will attack some of the broader social aspects of the problem.

The recent discoveries have emboldened researchers to predict that some control over aging will be possible within five or 10 years—or at least by the end of this century. It is already possible greatly to increase the lifespan of some experimental animals by reducing food intake, by lowering body tem-

perature or by introducing various chemicals into the diet. Some even believe the ravages of time can ultimately be reversed by reaching into the cells of the body and reactivating genetic machinery that has lain dormant.

Such an "elixir of youth" is beyond the horizon, It is only a possibility if certain theories are correct. And it is spoken of in whispers because monkey glands, potency pills and the other tools of rejuvenation quacks have given the whole subject a bad name.

Not all forms of life are mortal. Amoebas and many other one-celled organisms that reproduce by dividing do so indefinitely as long as the environment and nutrition are adequate.

The only fully-developed human cells that live on indefinitely seem to be those that have taken on a form that appears cancerous. It has been shown by Dr. Leonard Hayflick of Stanford University and others that a fixed lifetime is built into individual human cells as well as into complete human beings.

The cells, when removed from the body, apparently "know" the age of their parent body. Those from an embryonic lung subdivide about 50 times before dying. Those from an adult lung do so only some 20 times. Dr. Hayflick has warmed up more than 100 batches of such cells, kept in a deep freeze for a number of years, and the cells "remembered" how old they were when frozen.

At the University of Washington, cells were taken from the arms of 100 subjects, ranging from prenatal age to 90 and the number of subdivisions in laboratory culture fell off systematically according to the age of donor. From such experiments it is evident that the key to aging is hidden in every cell.

There is evidence to suggest that aging is—or can be—controlled by some specific part of a person's genetic inheritance (a so-called gene). Dr. William Reichel at Franklin Square Hospital in Baltimore has been studying two rare and insidious human disorders (they may, actually, be identical) that produce symptoms of accelerated aging. In one, known as progeria, aging is so rapid that by eight years a child may be bald with wrinkled skin, weakened bones and heart disease. Such children die of "old age" by about age 11.

Their cells, cultured by the University of Washington group, rarely doubled in number more than a couple of times, indicating a strong inborn aging factor. In the other disorder, Werner's syndrome, death comes later, at about 40, and this disease, according to Dr. Reichel, seems clearly to be inherited as a single gene. This, he recently told Medical World News, indicates that a single enzyme is the cause, the implication being that such a cause should be subject to chemical correction with drugs.

There are other indications that an aging factor can be inherited. Dr. James F. Danielli, now at the State University of New York in Buffalo, discovered accidentally that his cultures of "immortal" amoebas sometimes acquired an aging factor as part of their genetic makeup when subjected to stress. Some or all of their descendants ultimately died.

Dr. Nathan W. Shock, head of the Gerontology Research Center of the National Institutes of Health in Baltimore, and dean of American researchers in the field, wrote recently: "Much work must still be done before we can alter the basic genetic program for aging in man." Nevertheless, he said, as predicted by some geneticists, "such an alteration might result in the doubling or tripling of the human life span."

Interviews with a number of researchers in this country and abroad have disclosed, among others, the following lines of attack on the aging problem:

Free radicals. Some believe that substances known as free radicals cause aging within the cells. A free radical is a partly dismembered molecule so "anxious" to recombine that it tends to react with anything near by. Free radicals can be produced, for example, by radiation. They cause butter to become rancid. Substances known as antioxidants are used to neutralize their effects as an aid to food preservation.

Dr. Denham Harman at the University of Nebraska in Omaha has been feeding antioxidants to mice. In some mouse strains the average lifespan has increased 45 per cent, but as in modern medical practice, the maximum lifespan has not risen noticeably.

Dr. Harman believes free radicals perform an essential function within those energy-processing units of cells known as mitochondria. He thinks radicals leak out of the mitochondria and attack other substances, producing permanent damage, within the cell. The "clock" that controls aging resides in the mitochondria, he believes. It runs faster in mice than in men and so, although the hearts of mice and men beat about the same number of times in an average life, the "engine" of the mouse runs faster and dies sooner.

Cross-linking. As rubber, leather, human skin and blood vessel walls become older they lose their elasticity. This is attributed to a process known as cross-linking. The original elasticity is provided by elongated fibers of collagen, a basic building material of the body. But as time passes, chemical cross-links are formed between these fibers, reducing their elasticity.

During a mysterious sheep epidemic in the West it was found that the animals had been eating a form of wild tea that broke such cross-links until the sheep almost literally fell apart. A certain amount of cross-linkage is essential.

Chemicals that break these links, such as the one in the wild tea, have been tried in efforts to extend animal lifetimes without disintegrating their bodies. The results so far are inconclusive.

Autoimmunity. A number of diseases of advancing years, such as arthritis, are thought to result from autoimmune reactions—those in which the body's chemical defenders turn on parts of one's own body, failing to distinguish friend from foe. Some believe that not only does the ability to muster these antibody defenders decline with age, but so does the efficiency of that system in making such distinctions.

The spleen is a major source of cells that produce the defenders. In experiments at Oak Ridge National Laboratory in Tennessee, spleens have been extirpated from specially bred mice that normally die of cancer within two years. If the spleens are removed at 1.5 years the life expectancy is doubled.

Low protein diet. In the 1930's it was noticed that rats kept hungry lived longer and many investigators have pursued this clue. Dr. Morris H. Ross of the Institute for Cancer Research in Philadelphia has found that limited protein intake plays a role in this respect as well as in the onset of cancer. Last week Dr. Robert A. Good of the University of Minnesota also reported that rats, mice and Australian aborigines on low protein diets show strong resistance to cancer. However, the food intake apparently must be restricted enough to slow growth and must be maintained throughout life. This would make it unattractive to human beings.

Copying errors. It is suspected by many that as life proceeds, errors accumulate in the composition of molecules controlling cell function. The nucleic acids, notably DNA, are the central archive. Enzymes help carry the messages, repair damaged nucleic acids and perform other roles.

In 1963 Dr. Leslie E. Orgel of the Salk Institute in La Jolla, Calif., suggested that errors accumulate in the system of nucleic acids and enzymes until there is an "error catastrophe" which manifests itself in aging. He and many others are exploring such possibilities.

Dr. Bernard L. Strehler of the University of Southern California points out that, if the cell continues to harbor, in hidden and suppressed form, the genetic instructions that originally made it function properly, some way may be found to reactivate those instructions. This could make it possible to turn back the years and, he said last week, "there is a remote possibility of something like that."

The dean of British researchers in this field, Dr. Alex Comfort at the University of London, notes that the rate of aging in human beings can now be measured, over a span of only a few years, by observing changes in such things as skin flexibility, percentage of white hairs, heart and lung function. He is therefore pressing for early tests of various diets, even though the basic cause of aging is still uncertain.

This might not have much effect on maximum lifespan, but it could, he thinks, substantially lengthen the years of health and vigor. Once the secret of aging itself has been resolved, however, a major social and economic upheaval will be in prospect. The effects will range from new efforts to control population growth to revision of insurance, retirement and pension plans.

At least some progress toward control of aging is to be expected in our lifetime, and Dr. Comfort said recently, "We should get used to the idea."

ADDITIONAL STATEMENTS

NOTABLE LINCOLN QUOTATIONS

Mr. ALLEN. Mr. President, the annual Lincoln Day observance has come and gone. However, the memory of the life of Lincoln is kept fresh and alive, as though sustained by lifegiving waters of a sparkling mountain spring. The books on his life and anthologies of his writings provide us with a continuous source of refreshment and inspiration.

Mr. President, a former neighbor and a dear personal friend, Mrs. Marene Monroe, has compiled a list of notable Lincoln quotations, some of which articulate certain aspects of the conservative philosophy. Some few of these quotations were recently published in the Birmingham News. I believe that Mrs. Monroe has brought together an impressive list of Lincoln quotations that may be read and pondered with profit by Senators and the public.

I ask unanimous consent that the quotations be printed in the RECORD.

There being no objection, the quotations were ordered to be printed in the RECORD, as follows:

LINCOLN'S WORDS STILL GOOD ADVICE

As we approach the birthday of Abraham Lincoln, our 16th president, on Feb. 12, in these days of "Let-me-do-it-for-you society," I would like to recall some of his valuable statements:

"You cannot bring about prosperity by discouraging thrift."

"You cannot strengthen the weak by weakening the strong."

"You cannot help small men by tearing down big men."

"You cannot help the poor by destroying the rich."

"You cannot lift the wage earner by pulling down the wage payer."

"You cannot keep out of trouble by spending more than your income."

"You cannot further the brotherhood of men by inciting class hatred."

"You cannot establish sound security on borrowed money."

"You cannot build character and courage by taking away a man's initiative and independence."

"You cannot help men permanently by doing for them what they could and should do for themselves."

Remember, "No one ever got lost walking on a straight path."

OCEAN MAMMALS PROTECTION ACT

Mr. MATHIAS. Mr. President, because of the importance of the Ocean Mammals Protection Act now under consideration by the Senate Commerce Committee, I ask unanimous consent that my testimony be printed in the RECORD.

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

OCEAN MAMMALS PROTECTION ACT

Mr. Chairman, members of the Commerce Committee, I wish to thank you for this opportunity to share my thoughts with you on the vital legislation currently before you.

The Senator from Oklahoma has introduced the Ocean Mammals Protection Act of 1971, a bill to protect seals, walruses, sea lions, polar bears, and other like mammals from being pursued, harassed, killed, and exterminated. I take great pride in cosponsoring this legislation which I believe is exemplary in its goals and worthy of the support of every Member of Congress.

It is a somber reflection of the estranged soul of man that it is necessary for this Government to enact a law prohibiting the cruel, unwarranted slaughter of any of God's creatures. Yet, we approach that duty today because we see that citizens of this Nation continue to condone, and even encourage, the mass destruction of ocean mammals. In its most blatant form, this conscious act of extermination continues because certain entrepreneurs know that there is money to be made in the selling of seal skins to persons who enjoy wearing expensive, ornamental accoutrements. To supply the mercantile market as many as 2,500 seals may be clubbed and skinned in a single day's outing on the northern Pacific Pribiloff Islands. At the same time the delicate ecological balance amongst the species has been seriously impaired. The harbor seal population has declined by four-fifths of its number, the blue whale by one-hundredth of its number, and the polar bear is almost extinct.

The Pribiloff Island natives employed in these annual summer-long hunts do not kill the ocean mammals for purposes of enjoyment or sport. They do so in the belief that it is the only available means of deriving food and shelter for their families and themselves. The Ocean Mammals Protection Act provides these natives with an alternative life style which will meet their economic needs.

The act establishes the islands as a National Seal Rookery Preserve and Bird Sanctuary, and it directs the Department of the Interior to train and hire the natives who remain on the island as rangers and guides. The act also establishes an appointed Commission to "help in the transfer of the Pribiloff Islands from a place of killing into a preserve, to help promote tourism, and to develop an economy on the islands for the Aleuts to take the place of their participation in the slaughter of the seals."

The brutality that is currently perpetrated against the mammals of the ocean is a rank violation of the covenant of preservation which exists between man and his surrounding world, his total environment. We have lately rediscovered that covenant because it has become apparent that through our careless abrogation of this law of nature we have allowed our land, our water, and our air to be poisoned. It is quite possible that had we been more aware of this natural responsibility in the past, we would not be so endangered at present by pervasive pollution.

That covenant and natural responsibility, however, exists fundamentally upon a moral basis, and it extends to all things and all living creatures. We step beyond our natural bounds if we kill for any other reason than to protect ourselves and to provide for our sustenance.

This act presents alternative livelihoods for those persons currently engaged in the great mammal hunts, and it presents the opportunity for this Nation to adopt a visibly humane purpose. Further, it presents a challenge to all of us to preserve an essential part of our environment, a segment of the animal kingdom that is steadily disappearing. I urge my fellow Senators to act promptly and favorably in support of this legislation.

B'NAI B'RITH SENIOR CITIZENS HOUSING PROGRAM

Mr. SCOTT. Mr. President, two very encouraging actions—one by a private organization and one by the Government—have brought hope to some of the world's ill-housed. On February 12, the B'nai B'rith announced a speedup of its senior citizens housing program, which provides for low-rent units in nonprofit and nonsectarian projects constructed with Government-insured mortgage loans. And on February 16, the Department of State's Agency for International Development guaranteed a $50 million loan to build 11,000 homes in Israel primarily for Jewish immigrants from the Soviet Union.

I am pleased to note that the B'nai B'rith housing program already includes a fully occupied project in Wilkes-Barre, Pa., with another one under construction in Allentown. Other projects are already on the drawing boards for Harrisburg, Philadelphia, and nearby Cherry Hill, N.J. David M. Blumberg, B'nai B'rith's new president, said that—

Decent low-cost housing is an imperative for the elderly.

I am delighted to learn of this outstanding program, and I intend to encourage more of the same by other groups in the private sector.

The Israeli loan guarantee is one about which I am tremendously gratified to learn. During the foreign aid bill's markup before my Foreign Relations Committee last October, I worked very closely with the State Department to assure that the bill contained necessary funds for the worldwide housing guarantee program. At one point, the level had been pushed down to $130 million, but the conference moved it back up to $205 million. The higher figure virtually assured the $50 million loan guarantee which was just announced. To date, it is the largest guarantee ever granted by the Agency for International Development. I remain hopeful that it will not be the last.

MANIFESTO FOR THE ELDERLY POOR

Mr. CHURCH. Mr. President, the OEO Older Persons Advisory Committee has issued a far-reaching manifesto to bring the elderly poor into the mainstream of our society.

In many respects, their comprehensive action program is a powerful reaffirmation of many proposals advanced by the Senate Committee on Aging, of which I am chairman. For example, this 20-member panel called for:

Major increases in social security benefits;

Cost-of-living adjustments to make these benefits inflation-proof;

Provision for general revenue financing for a portion of the social security program;

Relief for overwhelmed aged homeowners and tenants whose incomes are at or below the poverty line; and

Establishment of special emphasis programs to provide full and part-time employment opportunities for older Americans.

Additionally, this manifesto provides further compelling arguments for my Social Security-Welfare Reform proposal, S. 1645, to end poverty for the elderly. Today 4.7 million older Americans fall below the poverty threshold. Another 1.8 million are considered marginally poor. Even more disturbing, the number of aged poor has actually increased by 100,000 during the past 2 years.

My proposal, however, could abolish poverty for the elderly once and for all. First, it would provide for across-the-board increases in social security benefits which would average about 12 percent. But these raises would be weighted to provide larger percentage increases for persons who now receive low payments. For instance, a person with monthly lifetime earnings between $150 and $200 would be entitled of a 21-percent boost in benefits. Second, my bill would raise the minimum monthly benefit from $70.40 to $120 for persons with long periods of covered employment. Third, S. 1645 would abolish old age assistance and replace it with a new income supplement program with an income standard sufficient to end poverty for the aged. Finally, my bill would authorize cost-of-living adjustments for the social security and the new income supplement programs.

The urgent need for comprehensive and prompt action was expressed very forcefully and eloquently by the Advisory Committee when it said:

No longer must American aged live in hunger, suffer from lack of health care, exist in dilapidated housing, and remain isolated and hidden from the mainstream of American life. Many elderly—poor and rich—are robbed of their dignity as human beings by a now-oriented society which too easily forgets the contributions—past and present—of its aged population.

Mr. President, I commend the "Manifesto for the Elderly Poor" to the Senate and ask unanimous consent that it be printed in the RECORD.

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

OFFICE OF ECONOMIC OPPORTUNITY,
Washington, D.C. November 4, 1971.

Mr. TONY KUBEK,
Chairman, Older Persons Advisory Committee, Office of Economic Opportunity, Washington, D.C.

DEAR MR. KUBEK: I am pleased to acknowledge receipt of your report, entitled *A Manifesto For The Elderly Poor*, which was sub-

mitted pursant to Executive Order #11007 authorizing the establishment of Advisory Committees to assist Agency heads in receiving the advice and counsel of distinguished citizens outside the Federal Government.

As you know, the Executive Order requires that "no committee shall be utilized for functions not solely advisory" and that "determinations of action to be taken with respect to matters upon which an advisory committee advises or recommends shall be made solely by officers or employees of the Government".

I am grateful for the thoughtful work reflected in your recommendations and, by this letter, am authorizing its contents to be reproduced in sufficient quantity that it may receive the consideration of appropriate Government officials.

With best wishes, I am,

Sincerely,

PHILLIP V. SANCHEZ,
Acting Director.

MANIFESTO FOR THE ELDERLY POOR

The Older Persons Advisory Committee is a group of 20 citizens serving in a voluntary capacity as advisors to the Director of the Office of Economic Opportunity. We assist him in carrying out the responsibility given him by the Economic Opportunity Act, namely, ". . . to achieve a coordinated national approach to the elderly poor."

Because all members of the committee are also delegates to the 1971 White House Conference on Aging, we are fulfilling two responsibilities in presenting this "Manifesto for the Elderly Poor."

The manifesto represents our beliefs and recommendations and not necessarily those of the Office of Economic Opportunity.

Mr. Tony Kubek (Chairman), Wausau, Wisconsin.
Mr. Albert Abrams, Albany, New York.
Col. Cruz Alvarez, Mesilla, New Mexico.
Mr. Chester Blubaugh, Lebanon, Indiana.
Mr. Orin Crump, Sandy, Utah.
Mr. John Hickey, Buffalo, New York.
Mrs. Mary Louise Johns, San Antonio, Texas.
Dr. Donald Kent, University Park, Penn.
Dr. Juanita Kreps, Durham, North Carolina.
Mrs. Angela Littlebeaver, Winnebago, Nebraska.
Mr. Robert Blue (Co-chairman), Eagle Grove, Iowa.
Mother Bernadette de Lourdes, Trumbull, Connecticut.
Mrs. Thelma Morris, Denver, Colorado.
Mrs. Ida May Petty, Baltimore, Maryland.
Mr. John Pioda, Atlanta, Georgia.
Mrs. Mary Powell, Akron, Ohio.
Miss Ollie Randall, New York, New York.
Rev. Richard Waggy, Brighton, Colorado.
Mrs. Minnie Wooden, Washington, D.C.
Mrs. Sally Wren, Edmonds, Washington.
Cleonice Tavani (Executive Secretary), Office of Economic Opportunity.

ACTION NOW

One out of every four Americans over the age of 65 lives in poverty. And even more live so close to poverty that its chilling effects hang over them. To the trials of old age are added the harsh burdens of poverty—made more cruel by the fact that it need not be.

Action is needed now.

No longer must American aged live in hunger, suffer from lack of health care, exist in dilapidated housing, and remain isolated and hidden from the main stream of American life. Many elderly—poor and rich—are robbed of their dignity as human beings by a now-oriented society which too easily forgets the contributions—past and present—of its aged population.

We can—we must—we will do better!

While we must improve the quality of life for all the aged, our top priority must go to those who suffer most. America must address itself first to the needs of the elderly poor.

Our goals must equal our national greatness. Our action must merit our national pride. We must strive to provide more than mere subsistence; we can and must provide the opportunities for decent and meaningful living through all the years of life.

In planning, we must recognize the continuity of life. We must act immediately to lift the present aged from poverty. Even with adequate income, certain needed services cannot be purchased in the marketplace and must be provided. Within and between income and services programs, a full range of options should be available for all aged Americans.

To insure that future generations do not end their days in poverty and despair, the Older Persons Advisory Committee of the Office of Economic Opportunity submits these recommendations.

To end poverty now—Older Americans should be assured that level of income which the Bureau of Labor Statistics designates as the "intermediate" level required for a "modest but adequate" standard of living.

I. Change Social Security System: The promise of an adequate income for the elderly based on a combination of Old Age and Survivors Insurance and Old Age Assistance has not been realized. A complete revision is essential. We urge the Congress to enact legislation that would:

1. Bring all the elderly under the coverage of the Social Insurance System. It is time to end demeaning "welfare" for the aged. No older American shall be denied coverage today because in the past some occupations have been excluded.

2. Finance the Social Insurance System out of general revenues in addition to continuing employer and employee contributions.

3. Build into benefits regular cost of living increases.

II. Improve Existing Social Security and Welfare Systems: Until these fundamental changes in the Social Security System have been made, the Congress should:

1. Increase Old Age and Survivors Insurance and Old Age Assistance benefits to the Bureau of Labor Statistics' "intermediate" level of a "modest but adequate" standard of living. (Spring, 1970: $2,297-single person, 65 and over; $4,185-couple, 65 and over.)

2. Bar states from deducting any increases in Social Security from state Old Age Assistance payments. It is essential that all increases in Social Security benefits result in a net increase to the elderly poor who also receive welfare payments.

III. Curb Inflation: Unchecked inflation is a threat to all. It is the hidden thief that reduces the buying power of those on fixed incomes. It impoverishes those who retire on modest pensions; and it wipes out lifetime savings. We urge the President and the Congress to:

1. Give special attention to the needs of the elderly in pursuing the current strategy to stabilize the economy.

IV. Vesting and Portability of Pension Rights: After years of work and of contributing to private pension funds, many workers retire to find themselves ineligible for benefits. Many more lose pension rights because of job changes or unemployment. We urge the Congress to enact legislation to:

1. Require vesting of private pension plans beginning with the end of the first year of employment.

2. Provide for pension portability.

To maintain good health—Good health like income is a foundation stone on which to build a satisfactory and dignified old age. Good health in old age comes not alone from adequate medical care in the later years, but from a lifetime of good nutrition, good health habits, and good medical care.

Good health care is comprehensive care. It includes more than access to a physician and nurse during illness. There must be care for the acutely ill in hospitals and provision for the long term care of the chronically ill.

I. Basic Health System: Health care programs must go beyond curing illness. Prevention of illness is essential along with maintaining a high level of well-being. We urge Congress to:

1. Establish a national health insurance system that will provide health care throughout one's lifetime. Coverage for the elderly should include dental care, podiatry, prescription drugs, psychiatric help, eye glasses and other rehabilitative aids.

2. Provide for health maintenance organizations and neighborhood clinics to meet the needs of the elderly poor where they live. This would include mobile units, crossroads treatment centers, and store-front geriatrics. The elderly poor cannot afford a Cadillac medical system.

II. Home Health Care: The varying and progressive levels of incapacity of many of the elderly cannot be met through basic health programs. Still, not all of this group need or want costly institutional care. To enable individuals to remain in their own homes, it is urgent that the Federal government, in cooperation with state and local governments, develop on a national scale in every community—urban and rural—at least the following home health services:

1. visiting nursing services
2. homemaking services
3. home-delivered meals
4. transportation to essential services
5. casework services

III. Chronic Care: The greatest lack in the present system of health-care of the elderly is provision for chronic illness. It is a national disgrace to use both Federal and state tax funds to directly and indirectly subsidize substandard buildings and care. We urge the President and Congress to:

1. Require that government reimbursement for chronic care go only to facilities meeting at least minimum quality standards. The payment should at least cover the cost of care.

2. Consider the operations of chronic care facilities as the provision of an essential public service with rates and profits to be regulated as a public utility.

To provide a decent place to live—Older people should have *freedom of choice* to live in their own residences or in subsidized housing, in low or high-rise apartment buildings, with older people or with all-age groups, and with persons of a variety of income levels. Such living arrangements should also provide cultural diversity as well as serve to maintain family contacts.

I. Private Dwellings: Their own home frequently represents the greatest financial asset of the elderly. Many times it is their major expression of independence. Federal state and local government should assist those already poor and those who are housing-indigent through efforts to:

1. Prevent the levying of liens on homes of older persons otherwise eligible for Old Age Assistance payments.

2. Abate part or all of the property taxes levied on homes and rentals units of senior citizens whose income is at or below the poverty level.

3. Provide rehabilitation grants to low-income owners and low-interest loans for renovation of communal living arrangements for the elderly poor.

4. Prevent massive uprooting of the elderly poor in urban renewal and model cities programs. No plans should be approved without consultation with residents and provisions to insure a minimum of dislocation.

II. Congregate Subsidized Living Arrangements: Where and when the elderly desire or need to live in subsidized group housing, their independence should be encouraged in all possible ways including:

1. Make available limited supportive services in residential-centered facilities. Fi-

nancing for these services should be coupled with Federal programs for construction loans and grants.

2. Provide varying levels of care in health-centered facilities.

3. Provide maximum effectiveness of residential or health-centered facilities by easy transition between the two systems including development of a single system under a single administration which would provide housing for the active elderly, sheltered living for those in declining health and nursing services to take care of temporary minor ailments and provide long-term care for the chronically ill.

To be employed—Many elderly are willing and able and need to work, but are denied employment because of arbitrary age discrimination and Social Security regulations. Recent experience with such programs as Foster Grandparents, senior community aides programs of "Operation Mainstream" and "over-60" type employment projects have demonstrated the employment capabilities of the elderly. We urge the public and private sectors to cooperate in efforts to:

1. Eliminate the earnings test on Old Age and Survivors Insurance benefits.

2. Establish an independent program unit in the United States Employment Service to provide full-time and part-time employment opportunities for older people.

3. Grant tax concessions to private employers who employ the elderly.

4. Withhold Federal manpower aid from states which fail to enforce age discrimination laws.

5. Incorporate subsidized public employment programs in general-purpose government for middle-aged and older workers, to provide additional income and, at the same time, perform needed community services.

To put it all together—We have set forth some of the priorities which we believe this nation should address to fulfill its responsibilities to the elderly poor. But the promise and hope of new initiatives can mean nothing to the poor who all too often are not now receiving existing benefits and services. That help which does exist is often inaccessible to the vulnerable elderly because of complex and seperate delivery systems.

We have had enough demonstrations and research and experiments for the time being. Based on what has proven effective and needed, we urge the Federal government in partnership with other levels of government and with the private sector to establish the following as on-going and regular activities.

I. Accountability: All levels of government and voluntary groups should account to their constituents on their progress (or lack of it) in meeting their stated objectives for older persons. The President should take the lead by making an annual report on the conditions of the American aged. In addition, surveys of needs should be conducted, especially to assure that no older American suffers from malnutrition.

II. Planning, coordination and advocacy: Responsibility for planning and coordinating programs for the elderly as well as advocacy for their needs should be lodged in a sufficiently high place in each level of government to assure adequate and appropriate attention. The private sector should assign an equivalent importance to the aged and should work cooperatively with government and with older Americans themselves to establish community priorities.

III. Public senior centers: There should be a focal point in every community and neighborhood which would provide certain basic social services to all older persons as well as link those individuals with particular vulnerabilities to appropriate sources of help. The senior focal point should operate with maximum involvement of the elderly in policy-making, staff and volunteer roles.

These basic services in these clearly identifiable sites, financed as an on-going government program, could be the foundation for such additional services as the various levels of government and the voluntary sector, including organizations of the aged, would desire and sponsor.

The basic social services which would enhance the ability of the elderly to retain independence as long as possible are:

1. Outreach, information and referral regarding existing benefits and services.

2. Nutrition, health and consumer education.

3. Housing counseling.

4. Health screening.

5. Transportation.

Action now.

Today more Americans live in affluence than ever before. Yet the aged poor are increasing both in percent and in number. This stark fact must dominate our thinking.

Government and the citizenry-individuals as well as groups—must all strive to ensure the opportunity for decent and purposeful lives for our nation's elderly.

We must design and adapt our institutions to meet the demands of today. We must expand the range of choices open to older persons. We have the know-how; we have the resources; we must not fail for lack of will.

This is the challenge to the 1971 White House Conference on Aging. This is its opportunity.

Action now.

TOWARD PEACE IN ULSTER

Mr. JAVITS. Mr. President, an editorial published in the New York Times of February 14, 1972, establishes so well how the tragedy of Northern Ireland has a chance for honorable settlement that I believe it should be made available to all Senators.

I ask unanimous consent that it be printed in the RECORD.

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

TOWARD PEACE IN ULSTER

Despite steady polarization of the two communities of Northern Ireland there can be no doubt that the overwhelming majority of Protestants and Catholics alike still fervently desire a peaceful solution for the future of the province. And despite the recent escalation of violence and bloodshed, an outline has emerged for a settlement that might yet find acceptance by both sides.

It will not be easy for any of the groups concerned to arrive at that settlement. The only force that might bring them within striking distance is the realization, now dawning on everyone, that the only probable alternative is civil war and sectarian strife.

The solution would demand a stiff price from all three governments involved, almost certainly including the eventual disappearance in its present form of one of these—the Northern Ireland Government at Stormont. That will not be accepted easily by that Government and by the Unionist-Protestant majority that sustains it nor by Britain, that set it up fifty years ago.

There is nothing sacred about the Stormont pattern, however, and it is now clear that even revisions in this miniature Westminster system will not give leaders of the Catholic minority the share of power they deem just and essential for their participation. The only imperative is that any successor administration have adequate representation of the million-plus Protestants, who comprise two-thirds of Ulster's population.

Depending on how other matters develop, this successor authority might have a long or only a medium life; but every possible solution for the Irish problem should be on its agenda from the outset, including unification. As Harold Wilson told the House of Commons in November, "A substantial term of years will be required before any concept of unification could become a reality, but the dream must be there."

If unity goes on the agenda for Ulster, it will be up to the Republic's Government in Dublin to demonstrate, by major revision of its Constitution and laws, that it genuinely wishes to turn dream into reality. This essential is often overlooked by ardent unity advocates in Ireland and abroad; it is never forgotten by that growing number of Ulster Protestants who would be willing in the right climate to agree to unification.

That climate requires elimination of the religious elements in the Constitution and laws of the Irish Republic; abolition of censorship; adoption of legislation in the fields of civil rights, health, education and social security to bring Eire's systems more in line with those of Britain and Ulster. Many of these reforms are long overdue; Dublin's will to carry them out will be a measure of the depth of its desire to prepare the way for unification. Without solid evidence that Dublin is serious enough about unity to make major changes, it will never be possible to get Protestant cooperation on a commission to draft a constitution for a united Ireland.

But will it be possible to get responsible Catholic participation even if the concessions are forthcoming? John Hume, Gerry Fitt and other Catholic leaders have said they will boycott discussions so long as internment without trial is in force. After the Londonderry tragedy they will be under pressure to demand withdrawal of all British forces as well.

It should be possible to devise a plan for phasing out internment, detaining for regular trial only those I.R.A. leaders and terrorists against whom there is solid evidence. It might be feasible to couple this with a conditional timetable for a gradual reduction of British forces as security improves, in return for Catholic participation in negotiations. But these developments would require Westminster to assure direct responsibility for security in Ulster.

There would be risks at every step in such policies; but it now is evident that continuation along present lines by all parties carries the greatest risk of all. These moves seem worth trying because, as Horold Wilson told the Commons in November, "If men of moderation have nothing to hope for, men of violence will have something to shoot for."

DEMOCRATIC PARTY REFORM

Mr. TALMADGE. Mr. President, my distinguished colleague from Georgia (Mr. GAMBRELL) addressed the Woman's National Democratic Club in Washington on February 17. His comments on Democratic Party reform have received such widespread attention that I ask unanimous consent that his address be printed in the RECORD.

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

ADDRESS BY SENATOR DAVID H. GAMBRELL, OF GEORGIA

When I was asked several weeks ago to indicate a subject, I thought of covering with you some of the structural reforms which we have seen and can expect to see in our Democratic Party in the future. Since then, however, it has become more and more obvious to me that no amount of structural reform in our party can lead our candidates to victory in November without a fundamental change in the attitude which our party leadership has adopted in recent years toward a large segment of the American voting public.

I will say, though, that reform of the National Party structure suits me very well. In fact, I don't think it has been carried far enough. No state party in the country has undergone a more thorough program of reform than that which I initiated during my term as State party chairman in Georgia. When our Georgia party was reorganized, our procedures were so democratic that both Julian Bond and Lester Maddox were selected as members of our state executive committee.

Also among those selected were approximately 10% women, 10% black, and 10% under 30. If form rather than substance were the end to be served, our greatest claim to fame would have to be the selection of Linda Curney, a black college girl of 19 years of age as a representative from the whitest congressional district of the State. But even more illustrative of the extent of the reform was the election by the new state committee just this last Monday afternoon of a 25 year old public administration graduate student as national committeeman and a 34 year old mother of five who is mayor of Jesup, Georgia as national committeewoman. I am proud of all of them, men and women, black and white, young and old, rich and poor, urban and rural, all elected by the people in a Democratic way.

At the national level, I have advocated not democratic selection of convention delegates, but also democratic selection and fair apportionment of the national committee. As you know, the national committee is no better apportioned than the U.S. Senate, and is selected not by the people, or by their states, but by the outgoing national convention, our self-righteous national party management, while gung-ho for convention reform, has not been able to swallow any such reform of their own status. It got too close to home. Democracy was alright for four or five days every four years, but not on a 365-day-a-year basis.

I have also advocated the right to challenge convention delegates across state lines, so that your D.C. delegation, if properly selected, could challenge one from Connecticut, Wisconsin, Oregon, or any other place if it is improperly constituted. What is so sacred about a challenge coming from within the State? Actually an illegally constituted delegation is as great an offense to other delegations as it is to people within the State. The reformers won't even acknowledge receipt of that suggestion.

I have also advocated doing away with the undemocratic and shortsighted bonus system of apportioning delegates, based on voting in the last Presidential election. Democratic participation, if it really seeks to encompass a majority of the voters in the country, should be based on democratic voting in Gubernatorial and Senatorial elections, as well as on the Presidential election. Of course, many of our so-called leaders believe that a narrower constituency is more cozy, and reject the idea of appealing to people who didn't vote democratic in previous elections. How they expect to put together a majority is beyond me.

I have a number of other mechanical and structural reforms which I would suggest for our party machinery, but as I say, they won't amount to much unless our message has appeal to a majority of Americans, who form a natural constituency for the Democratic Party.

The question of the hour is whether the message of current leadership has such appeal.

I don't have to tell you that George Corley Wallace is giving the so-called "leading candidates" of the Democratic Party a working over in Florida and a lot of other places. Some of the analysts are blind enough to believe that it is Governor Wallace himself who is creating all the trouble.

Actually, it's not Wallace himself at all, but a substantial group, possibly as high as 30 or 40 percent of the total population, all would-be Democrats, who think their party has run off and left them.

What we are seeing today in Florida, and elsewhere in the country, results from a division of the coalition forged by Franklin D. Roosevelt, between American working people, the poor, and the intellectual community. As matters now stand, the leadership of the Democratic Party is deliberately excluding a large segment of the American working people who lifted them to political power.

It is popular with the press to cast Democrats as "liberal", and anxious for change. That's because most of the Democrats they associate with like to tinker with society and the economy, but make no mistake about it, the working people of this country, including the poor, are by nature, and of necessity, "conservative". They look for strong governmental actions to protect their status, and their opportunities. But, as a group in our society, they are the least prepared for radical changes, economically, morally, politically, or socially. They have little mobility in society, either vertically or horizontally, and in fact take great comfort in the security of the status which they have.

Threats to undermine what they have fought, sweated and died to hold onto are not welcome.

Those who know this group only through Gallup polls and Harris Surveys, have persuaded themselves that these people are some insensitive subhuman form of life. Actually, they are a broad mixture of average American citizens. They are black as well as white, urban as well as rural, many relatively wealthy as well as the relatively poor. They include women along with men, white collar as well as blue collar, and young as well as old. In fact, on most issues, they include a majority of Democrats, and in some cases a majority of Americans. They have a basic sense of fair play, and are compassionate to their fellowmen. They have a sense of community as reflected in their schools, churches, civic clubs, and fraternal lodges. By and large, they are a hard-working, God-fearing, patriotic, tax-paying, self-reliant Americans who have been taught to do their duty, and to be respectful of authority, and they expect those they have placed in authority to run things right.

For some time, the American workingman has blindly trusted his leaders to serve him, and a myth has grown about progress for the workingman. The contradiction between the myth and reality is coming home to roost today.

Since World War II, real income (after taxes and inflation) for the lower one fifth of the economic spectrum, that is the very poor, has increased four percent.

Real income for the top fifth of the spectrum has increased forty percent.

Real income for the middle three fifths has actually dropped one and one-half percent—leaving the middle income workingman of America, who has been sold on so-called "progress" for 25 years as a way to patriotic self interest, worse off than he was in 1947.

Finally, the pain has become too great for him to ignore.

His pocketbook has been eroded by taxes and inflation, his moral values have been eroded by permissiveness, his communities have been destroyed by social manipulation, and his sons have been killed and maimed in misdirected warfare.

At the same time, he gets court-martialed while the generals get more medals. His children are bused, while the snobs send their children to private schools. He lives on take-home pay while the rich have subsidies and tax-free income; and on top of all that the smut-peddlers, dope-peddlers and rapists are set free on his children by courts that he has paid for.

Talk about pollution of the air and water!

Furthermore, he can see that the leaders, political, intellectual, business, military and trade union, who have conducted this fiasco are still in place, rich, comfortable, and established, full of new so-called "programs" for more of the same.

And not only do the political, business, and intellectual bosses keep driving him for more work, blood and taxes but they want to exclude him from fair participation in the political life of the country. It is popular with the elite of the Democratic Party to contemptuously refer to him as the silent majority, uneducated, a hard-hat, a blue collar, a red-neck, a racist, the top leader of the party tells him he's not welcome at the national convention, he can sleep on the beach, there's no room at the inn.

No wonder he's enraged, and slightly disoriented. He is so maligned by the elite, that no so-called respectable politician wants to be identified with him. Well, the feeling is mutual.

He is tired of the establishment leadership. He wants one of his own boys, one who has sweated and bled a little with him, lately. One who knows how to get the hay down where the goats are.

Politically, he is out for the best deal he can get. He no longer sees the Republican Party as the only enemy of the American workingman. He feels as unwelcome among the "intellectual snobs" as he ever did among the "robber barons." He may cast a protest vote for a candidate who allegedly "can't win", and he may even protest by voting Republican.

Thus, I suppose the burning question of the day is what can be done to draw these people back to the support of democratic candidates, or better still, what can be done to draw the Democratic Party back to its base of popular majority. The so-called "leading candidates" are apparently only vaguely aware of this problem, and are fumbling for an answer.

One technique that is being used is that of confessing grievous errors in the past. Another popular solution is to adopt what I'll call a "Florida accent", which is a new dialect being taken up by those who have spent the past twelve years playing political one-upmanship in Washington, but are now gaining a better understanding from a communicating directly with America's working people.

The shell-shocked appearance of those heroes returning from the Florida primary reminds me of a little story which I've heard up in the mountains of north Georgia.

On recommendation of his doctor, an elderly mountaineer sought relief from the rigors of winter by sojourning in the Florida sunshine. After recovering his health, he developed a deep tan on the Florida beach. However, he died suddenly of an unanticipated heart attack. After his returning home, he was lying in state before burial. Two of his friends were admiring the fine skin color which he had acquired during his winter vacation, and one remarked to the other, "that trip to Florida sure did old Zeke a lot of good."

While our leading candidates are still among the living, I'll say that this trip to Florida has done them a lot of good.

But their hides will need a lot more tanning before they regain credibility with the average working American. Unfortunately, the instincts of the party brain-trust are to look down their noses at "the silent majority", and to use the Federal treasury, the Federal courts, and the flag, to drum up political support. These are exactly the abuses which have created the disenchantment I have referred to.

In the long run, and also in the short run, it is my opinion that success for the Demo-

cratic Party will come from the emergence of new leadership which can genuinely reach out for those who have been considered outcasts. We are trying to play the big games of this season with the heroes of the early Sixties, who lost the super bowl in 1968. This program might not be so misguided if our bench were not filled up with talented rookies, who have shown the capacity "to put it all together" in the elections of 1970 and 1971.

It is questionable to me whether the present party leadership is capable of bringing lost Democrats back into the Democratic Party, or of bringing the lost Democratic Party back to the Democrats. Today's party is hardly the party of Roosevelt, or even of John Kennedy. It is hardly the party that drew the poor and the working people of this country together. These true Democrats must once again control the party that is their own. The basic reform which is needed as we approach the national elections of 1972 is to restore the confidence of the American workingman in the Democratic Party.

PUNISHMENT FOR GENOCIDE

Mr. PROXMIRE. Mr. President, the articles of the Genocide Convention do not specify appropriate punishments for the crimes they describe. Rather they have left this decision to the individual nations that have ratified the treaty.

On May 4, 1971, the Senate Committee on Foreign Relations favorably reported the treaty to this Chamber. In their report they called upon the administration to draft and submit legislation to implement this treaty for consideration by Congress. The Senator from Pennsylvania (Mr. SCOTT) has presented such legislation. Within it there is the following direct statement regarding punishment:

> Whoever is guilty of genocide or of an attempt to commit genocide shall be fined not more than $20,000 or imprisoned for not more than twenty years, or both; and if death results shall be subject to imprisonment for any term of years or life imprisonment.

Considering the great atrocity which genocide entails, no one could find such punishment too severe. Rather it provides a just punishment for a crime against all humanity.

We must all hope, however, that such punishment will serve as an effective deterrent against those deranged minds who would attempt such heinous acts. Through this legislation of implementation the Senate should now have a clear picture of the Genocide Convention. I urge my colleagues to move for immediate ratification of the treaty.

SPARTAN BAND, HILLSBORO, OREG., HIGH SCHOOL

Mr. HATFIELD. Mr. President, it is an honor and a privilege to call attention to the Spartan band of Hillsboro Union High School, Hillsboro, Oreg. The Spartan band is the only band from Oregon to participate in the International Band Festival to be held in Vienna, Austria, in July 1972. Less than 2 percent of the high school bands of the United States were even considered by the festival invitation committee.

The Spartan band, under the direction of Mr. Carl A. Gutmann, has established itself as one of the outstanding high school bands in the Northwest. The band has been honored many times during the 20 years Mr. Gutmann has been its director. In 1961, the Hillsboro band represented Oregon in the Pasadena, Calif., Tournament of Roses parade on New Year's Day. Three times the band, through an extensive audition system, was selected to represent Oregon school music groups at Northwest and State music educators conventions. The Spartan band has won first place in the Portland Rose Festival parade marching competition three different years. College band directors at both Oregon State University and the University of Oregon, as well as Lewis and Clark College in Portland, have many times referred to the Hillsboro Spartans as one of the consistently best high school music organizations in the Northwest.

Fine bands are a tradition at Hillsboro and this proud city is hard at work supporting various fundraising projects to help send the Spartan band to Europe this coming July. These young people will undoubtedly represent their State and Nation to the highest degree in the competition in Vienna.

IDAHO'S CONTRIBUTION TO THE OLYMPICS

Mr. CHURCH. Mr. President, the Winter Olympics in Sapporo, Japan, are now over.

However, I take this occasion to invite the attention of Senators to the fact that my State contributed to the U.S. Olympic Team two members, including one member who won the first medal for the United States at Sapporo.

The two Idahoans on the team were Miss Patty Boydstun, of McCall, Idaho, and Miss Susan Corrock, of Ketchum, Idaho. I personally think that congratulations are in order for both girls for their contributions.

Susan won the first medal for the United States team at Sapporo by placing third in the women's downhill Alpine ski races.

It is, of course, no surprise that Idaho placed two members on the U.S. Olympic Team. Idaho boasts some of the best skiing in the United States, including world-famous Sun Valley—near Ketchum where Miss Corrock grew up. In all, Idaho has 26 excellent, developed ski areas, and I invite Senators to try our State on their next winter vacation.

Mr. President, I ask unanimous consent to have printed in the RECORD two articles—one from the Washington Star, the other from the Washington Post—concerning Miss Corrock's victory at Sapporo.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[From the Washington Star, Feb. 5, 1972]

IDAHO SKIER WINS FIRST U.S. MEDAL

SAPPORO, JAPAN.—The courage of downhill racer Susan Currock could whet the American appetite for a bigger medal haul in the IX Winter Olympic Games.

The 20-year-old Miss Currock, of Ketchum, Idaho, picked up the first medal for the United States when she finished third in the women's downhill, first of the Olympic Alpine ski races.

Miss Currock finished exactly one second behind the one-minute and 36.68-second clocking of surprise winner Marie-Therese Nadig of Switzerland. The American girls high finish wasn't too astonishing, especially after Friday's downhill practice session when she went all out for the best time while other girls preferred a more cautious descent to avoid injury.

West Germany won two of the other four medals contested Saturday and East Germany captured the other. The U.S. hockey team, given little chance to be anything but the doormat of the Class A competition, lost the first game of the Olympic round-robin to Sweden by 5–1. Kevin Ahearne of Milton, Mass., scored the only Yank goal of the game.

Beatrix Schuba of Austria held the lead with a perfect 9.0 ordinal score at the halfway mark of the women's figure skating championships. Julie Lynn Holmes of North Hollywood, Calif., was second in the competition and Janet Lynn of Rockford, Ill., stood fourth in the standings.

Erhard Keller of West Germany, who plans on hanging up his skates next month because he is getting too old for active competition, won the men's 500-meter speed skating gold medal in Olympic-record time of 39.44 seconds.

Earlier in the day, Wolfgang Zimmerer and Petter Utzschneider had given West Germany its first gold medal of the games by winning the two-man bobsled. East Germany took the fourth gold medal contested Saturday as Ulrich Wehling won the Nordic combined ski title.

Miss Currock, light for a downhill racer at 116 pounds, said she had to ski well because "once you make a slight mistake you blow the whole race. I think I skied well without any mistakes and I'm very happy over having won the bronze medal."

The United States won seven medals in the 1968 Winter Olympics at Grenoble, including the lone American gold medal picked up by Peggy Fleming in figure skating.

West Germany took the lead in gold medals with its pair Saturday. Keller, a 27-year-old dental student, became the first 1968 Olympic champion to defend his title successfully as he erased the games record of 40.10 seconds set by Terry McDermott of the United States in the 500-meter skating event at Innsbruck, Austria, in 1964.

Ard Schenk, the towering Hollander who was going for a gold medal double after winning the 5,000-meter skating event Friday, was stopped in his bid for a second triumph when he fell and finished far back in the pack with a slow 43.40 second time.

Zimmerer and Utzschneider had the bobsled title wrapped up by the third run and took no chances of having an accident as they carefully went down the chute the fourth time. They had a best combined time of four minutes 57.06 seconds.

Wehling, a 19-year-old East German high school student who was fourth in Friday's jumping phase of the combined Nordic, finished third in Saturday's 15-kilometer (9.6 mile) cross-country ski race to post a best point total of 413.340.

Miss Nadig was given little chance of winning the downhill race after doing poorly in several World Cup meets. But she successfully negotiated the final right-hand turn and steep schuss to the finish line that proved disastrous for France's Francoise Macchi earlier in the week when she injured herself and was forced out of the competition.

"I can't believe that I am the Olympic champion," said the Swiss miss. "I think I skied well, although I could have done better over one of the jumps."

Downhill practice ended Olympic medal hopes of Eric Poulsen of Olympic Valley, Calif., who fractured his right wrist in a training accident for Monday's men's down-

hill event. Poulsen was airlifted by helicopter to the Olympic village clinic where it was also discovered he tore some ligaments in his right leg.

[From the Washington Post, Feb. 5, 1972]

AMERICAN SUSAN CORROCK THIRD—SWISS GIRL WINS DOWNHILL SKI

SAPPORO, JAPAN, February 5.—Switzerland's Marie Therese Nadig won the women's alpine downhill ski race today as Susan Corrock of Ketchum, Idaho, finished third to win the United States' first medal of the 11th Winter Olympic Games.

Miss Nadig, 17, a student, sped the course in 1 minute 36.68 seconds to edge favored Annemarie Proell of Austria, the women's World Cup leader, who finished in 1:37.00. Miss Corrock was third at 1:37.68.

The performance of Miss Corrock, 22, been skiing in international competition just two years, also brought the U.S. its first Olympic medal in alpine skiing since 1964, when Jean Saubert and Billy Kidd totaled three medals. Miss Corrock, laughing and crying, embraced teammate Marilyn Cochran and said.

"I can't believe it. This was my best run. I didn't make any mistakes.

SUBJECT TO REVIEW

"I felt great. It feels exciting, really good to have a bronze."

All downhill placings are subject to official review, so the races are subject to protest and official decision.

Unofficially, other American finishers were Karen Budge, of Jackson Hole, Wyo., 14th in 1:40.68; Sandy Poulsen of Squaw Valley, Calif., 22d in 1:41.25, and Marilyn Cochran of Richmond, Vt., 28th in 1:41.98.

The two German teams swept the first three gold medals contested today, and the United States hockey team was trounced by Sweden, 5–1.

East Germany's Ulrich Wehling, 19, a high-school student, was the day's first gold-medal winner when she parlayed a third-place finish in the 15-kilometer (9.6-mile) cross-country ski race into over-all victory in the two-event Nordic combined competition.

The West German team of Wolfgang Zimmerer and Peter Utzschneider won two-man bobsledding, and West Germany's Erhard Keller became the Games' first defending champion to retain his title as he took the 500-meter speed skating in Olympic-record time.

Sweden, rated behind Russia and Czechoslovakia in title competition, routed the tired Americans, playing only 16 hours after defeating Switzerland 5–3, for the right to enter Class A and compete for a medal.

Kevin Ahearn, of Milton, Mass., who had scored twice against Switzerland, averted a shutout against Sweden by scoring in the first period.

The Swedes scored at 2:32 of the first period and then dominated play. American goalie Mike Curran, of International Falls, Minn., played brilliantly, several times stopping breakaways.

Two American "goals" were not allowed when the referee ruled that, on each shot, an American player preceded the puck into the goal crease.

RUSSIANS OPEN PLAY

The remaining Class A opening games, scheduled later today, matched defending champion Russia against No. 4 Finland and No. 2 Czechoslovakia against No. 8 Poland, an upset winner in the elimination round.

Wehling won the Nordic combined with a 413.340 overall point total, based on today's race and his fourth-place finish in Friday's 70-meter jumping event.

Silver and bronze medalists were Finland's Rauno Miettinen and Germany's Karl Luck, respectively. Japan's Hideki Nakano, leader after the jumping, raced poorly today and finished far back.

Top American finisher was Michael Devecka of Government Camp, Ore., who was sixth today but 21st over-all.

MIETTINEN CLOSE

Wehling began his international career two years ago and last year won the European Junior championship. He outraced Miettinen, a baker, by 1 minute 52 seconds to win the gold.

In bobsledding, West Germany also took the silver medal as Horst Floth and Pepi Bader set a course record on their final run to edge Switzerland's Jean Wicki and Edy Hubacher.

Both runnersup were unsure of their status until Italy's defending world champions, Gianfranco Gaspari and Mario Armano, made the day's final run down the 1,563-meter, 13-curve Mt. Teine course.

METHADONE MAINTENANCE TREATMENT PROGRAMS

Mr. JAVITS. Mr. President, I believe methadone maintenance treatment programs to be an effective procedure for reducing the large number of heroin addicts, and have introduced with Senator HUGHES the Drug Addict Treatment and Rehabilitation Act of 1971 (S. 2840) to launch a national commitment to the establishment of substantial numbers of methadone maintenance treatment programs where needed.

For example, in New York, despite heroic State and city efforts to eliminate the waiting lists of addicts voluntarily requesting methadone maintenance treatment programs, there are estimates of approximately 20,000 addicts who want methadone maintenance treatment programs, but funds and personnel are not available. Hence, an estimated $1 million a day in stealing may be the result of this failure. Methadone maintenance is not a short-term treatment process, but the reported results have been promising. I commend to the attention of my colleagues an article on methadone maintenance appearing in the February 16, 1972, issue of the Medical Tribune entitled "Treatment of Heroin Addicts With Methadone Is Defended," which describes the problems and sample results of methadone maintenance.

This article points out that methadone has no adverse effects on the human body, as compared to the horrible alternative effects of heroin, and many of the sample patients have shown remarkable advancement. Of the 1,150 patients tested, 75 percent secured a job as compared to only 25 percent previously employed and another 13 percent have returned to school. Methadone maintenance is a long-term treatment that has helped heroin addicts to return to a normal productive life, and I believe that these people should be given a second chance at life. By helping them, we are, in turn, helping ourselves.

I ask unanimous consent that the complete text of the article from the Medical Tribune be printed in the RECORD.

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

TREATMENT OF HEROIN ADDICTS WITH METHADONE IS DEFENDED

NEW YORK.—Methadone maintenance treatment for heroin addicts, which has been attacked as the substitution of one addictive drug for another, was defended here by Dr. Ray E. Trussel, general director of Beth Israel Medical Center, which has been operating such a program in cooperation with 11 hospitals in the New York area.

Acknowledging that this is so, Dr. Trussel pointed out, however, that the person on heroin is violating the law, is out hustling all the time to get money for his next fix, is always either "high" or "low," is in and out of jail, has broken up with his family, and runs a high risk of dying either of overdose or some medical complication.

"The patient on methadone maintenance, on the other hand, takes his methadone once a day under a doctor's prescription and gets on his way to do whatever he is capable of doing, getting back to his family, getting a job or going to school, or just being on welfare—but not stealing," Dr. Trussel told a Conference on Health Implications of Drug Abuse sponsored by the New York Heart Association.

This does not mean, he added, "that all of our patients are perfect human beings; some of them still go on doing antisocial things after they are no longer on heroin." About two out of every 10 patients are lost, he noted. This may be because of lack of cooperation on the program, because of a severe problem with alcohol, because of a severe problem with other drugs, occasionally because of death, "although the death rate drops very sharply after they get on methadone maintenance," and because some just want to get out of the program and go back to using heroin. Dr. Trussel emphasized, however, that the average rate of maintenance on the program is 80 per cent.

NOT SHORT-TERM PROGRAM

The question is frequently asked, "When will these patients get off methadone?" But this is asked, said Dr. Trussel, by those who think this is a short-term program. "They mix it up with detoxification," he said, "which doesn't cure anyone but just gives them temporary relief."

He noted that the follow-up on patients either discharged or voluntarily withdrawn from the program indicates that a percentage die, some go into other treatment programs, some are either in jail or back on heroin, "but the large percentage" come back and ask to be readmitted. "Apparently" he said, "when you withdraw an individual from methadone maintenance down to about a fifth of his usual blockade dose, he begins to experience drug hunger and starts thinking about going back on heroin and, in fact, in most cases will go back on heroin sooner or later."

It is necessary to understand, he said, that methadone is a long, long treatment program for each individual. "And given the absence of any adverse effects on the human body so far in the patients we have been following and that have been followed by others, I can't at this time see any scientific evidence that gives me reason to worry," Dr. Trussel said. "If I were a heroin addict who had failed in every other way, I'd rather take my methadone and do the best I could in life, rather than go back to heroin with all of the horrible alternatives before me."

The program, he added, has a number of women who were married or who became married and who have had babies. They are excellent patients, he said. They keep their prenatal appointments and have normal deliveries. And no evidence has been found that these babies as a group are any different than a control group of babies. In contrast, he noted, women on heroin are very poor patients. They do not keep their prenatal appointments, they seek care late, they have premature deliveries, and if they don't give up their babies for adoption the babies are condemned to a horrible life.

SIMILAR TO TB APPROACH

The program, he declared, has demonstrated a public health approach to a pub-

lic health problem similar to the tuberculosis situation. He noted that New York State once had a large number of tuberculosis hospital beds all filled and with a waiting list. With the discovery of isoniazid and streptomycin for the treatment of the disease, he said, every state tuberculosis hospital is closed and New York City has "remarkably few" tuberculosis hospital beds still open.

ABOUT 14,000 TB PATIENTS AROUND

"But there are some 14,000 patients with tuberculosis walking around the streets every day taking isoniazid and streptomycin by mouth, which they get at a health department clinic or a hospital clinic," he said. "And we have about 11,000 people walking the streets of New York taking methadone every day, people who were formerly in and out of jail, stealing and prostituting, and at a high risk of death."

In terms of reduced antisocial behavior, Dr. Trussel said that the effect of methadone treatment "is really remarkable."

He noted the employment and school status of 1,150 men who had been in the program for three months or longer. When they entered the program, one-fourth had a job. In six months, half had a job and half were on welfare. In three years, nearly 75 percent were working, about 12 percent were on welfare, and the rest were in school.

LIBRARIES AND THE ELDERLY

Mr. CHURCH. Mr. President, delegates to the education section of the White House Conference on Aging stated in the introduction to their recommendations:

Education is a basic right for all persons of all age groups. It is continuous and henceforth one of the ways of enabling older people to have a full and meaningful life, and as a means of helping them develop their potential as a resource for the betterment of society.

I certainly subscribe to that concept.

Last October, I introduced the Community School Center Development Act, the intent of which is to open our schools to all people, of all ages, in order to better serve our communities. As I said at the time, there is a need to maximize the use of all learning resources that have been established to serve young and old members of the community.

The public library has long been a familiar institution in our neighborhoods. But, the orientation of the library has long been toward the young. The White House Conference delegates recognized the importance of this educational resource and recommended that library services for the elderly be expanded.

Mr. Martin Segal, an Associated Press columnist on aging recently wrote an excellent article on new trends in the provision of library services for our Nation's aged. Mr. President, I ask unanimous consent that this article entitled "Libraries Emphasizing Services for Seniors" be printed in the RECORD.

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

SECURITY FOR YOU—LIBRARIES EMPHASIZING SERVICES FOR SENIORS

(By Martin E. Segal)

Older Americans now will receive special attention from the public libraries. Traditionally, attention has been channeled toward the young person. Recently, however, the U.S. Office of Education, librarians, and legislators have been examining and testing ways to provide more specialized services to other groups.

The aging, in a growing number of instances, have been the focus of special concern and services. The impetus for this attention can be attributed to the awakening national interest in their needs and welfare. Workshops have been conducted to develop librarian skills in working with the aging. Articles describing library services for the aging appear regularly in professional journals. And studies have been undertaken to determine what should be done by libraries for the aging.

Some libraries have established significant programs or services for their older readers. A few examples are:

The Boston Public Library sponsors its Never Too Late Groups for senior citizens in the main library and 15 branches.

The Cleveland Public Library's Live Long and Like It Library Club for persons over 60 recently entered its 26th year; a bequest from Frederick and Henryett Slocum Judd also made it possible, in 1941, to establish a library service for shut-ins, many of whom are older people living in homes for the aged.

The Milwaukee Public Library provides extensive programs for the aging through its Over 60 Service.

A branch of the Wake County Public Library (North Carolina) cosponsors an educational program for senior citizens.

In addition, many public and institutional libraries make special efforts, within the limits of their resources, to provide services to those denied normal access to library facilities because of handicaps.

The St. Louis Public Library, for example, provides direct individual delivery of materials to residents of nursing homes, homes for the aging, residents of apartment buildings for the aging, and the homebound. The Enoch Pratt Free Library (Baltimore) maintains collections of books at various local hospitals and nursing homes, and delivers books to aged shut-ins.

NATIONAL COMMISSION ON CORRECTIONS

Mr. TOWER. Mr. President, I am most pleasd today to join with my colleagues, the distinguished senior Senator from Arkansas (Mr. MCCLELLAN), and the distinguished junior Senator from Tennessee (Mr. BROCK) in cosponsoring S. 2939, to establish a National Commission on Corrections. It will be the duty of this National Commission to study in depth the Nation's corrections systems and to recommend minimum standards for Federal correctional facilities. There have been numerous studies in this area during the past few years and there has been much discussion of this pressing problem from all quarters during the past few months. Yet I have not seen any unified, coordinated plan emerge from any of the studies or given by any speaker. This Commission on Corrections would be charged not simply with reviewing past studies and statements, but likewise with taking a new look at the situation and with proposing concrete steps that the Federal Government should take to resolve this crisis.

Mr. President, I am one who believes that we must have strict and swift enforcement of our criminal laws in order that the rights of the law-abiding citizens of this Nation may be protected. Swift, sure judgment, and punishment is one of the most proven safeguards against crime. However, there is another aspect of the problem; that is, rehabilitation of criminals once they are in prison. It does no one any good, especially the society that we are trying to protect, if a man is sent to prison for a crime and the only thing that happens in prison is that the man becomes more bitter and uses prison time as a graduate course to become a better criminal.

Statistics show that the rate of repeaters in crime is at an alarming level. The FBI's Uniform Crime Reports of 1970 show that of the 37,884 persons arrested on Federal criminal charges in 1970, 68 percent had previously been arrested on criminal charges. Another alarming figure, likewise compiled in 1970, shows that of the 16,332 offenders released to the public community in 1965–69, 63 percent had been rearrested by the end of the fourth calendar year after release.

Mr. President, I submit that these figures show that we must do better in the rehabilitation of persons convicted of crimes in this Nation. There must be a way, or a combination of ways in which we can improve upon this record. I am all too aware that there are undoubtedly criminals who are beyond the pale, who probably have been so hardened that they can never be rehabilitated.

Nevertheless, I am just as convinced that there are many people convicted of crimes who would prefer to live within the law, if they could only learn how. Imagine, if you will, the case of the young adult first offender who is sent to prison. In most institutions, there is no distinction made between him and someone who has served three prison terms. They live in the same cell block and have to fend for themselves in the prison world. In order to survive, the first offender could easily become bitter, and, in a matter of months, become indistinguishable from the hardened criminals. Steps can be taken to see that those who can be rehabilitated have a chance to do so. We must find those steps so that one of the greatest menaces to society, the recidivist, can be eliminated as much as possible.

Mr. President, another great problem in our prison system today is the state of the Nation's jails and prisons. These institutions are handling nearly twice the number of people that they were originally designed to house. Sixty-one of the larger prisons in this Nation were opened before 1900 and 25 of these are more than 100 years old. Given these antiquated and crowded conditions, it should surprise no one that our penal institutions have become a place where first offenders are turned into hardened criminals and where the crime rate in the country continues to be adversely affected.

Mr. President, this matter should receive priority consideration. At stake are not only the lives of many thousands of people who can be saved from a life of crime, but also the very safety and well-being of the lives and property of nearly every American. With a sound penal system, another battle in the war against crime can be won.

ADDRESS BY SENATOR MUSKIE

Mr. FULBRIGHT. Mr. President, on February 2, 1972, the Senator from

Maine (Mr. MUSKIE) spoke on the Vietnam war at the National Presbyterian Center in Washington. That speech, in which he criticized the administration's peace proposals and offered his own two-point plan, has become a subject of wide public discussion because of the intensity of the subsequent attack by the administration against Senator MUSKIE and other Democratic presidential candidates. Because Senators may be interested in reading the words that inspired this administration response, I ask unanimous consent that Senator MUSKIE's speech on February 2 be printed in the RECORD.

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

REMARKS BY SENATOR EDMUND S. MUSKIE

I have been asked to talk with you today about the environment—the earth God made. Instead, I want to ask you to reflect with me on the earth man has remade. For if what we mean by the environment is what we have done to our land and our lives, then half a world away, we have come dreadfully close to fulfilling the nightmare of Tacitus: "They have made a desert and called it peace."

Four years ago, this nightmare was first invoked to describe the war in Vietnam. Since then, every year has been hailed as a year of hope for peace. And every year, we have seen our hope turn to the dust of new-made graves. America's leaders have been carried along on a tide of illusion, convinced at first that we were right, committed still to making right a war we know is wrong. We fight for a make-believe victory in a real place and real people die each day.

The President gave us his latest solution last week, and he is at a crossroads. The choice for the President is whether he will use his dramatic announcement to build political support for endless battle—or whether he will seek to end the fighting now. Those of us who are out of power must welcome Administration proposals to move American troops out of Indochina. But we must also question the wisdom of a course which attaches so many conditions to our leaving that it can only leave us where we are now—watching our sons fight and die, not for a cause, but for a mistake—looking to a future where more human beings will suffer at our hands in a senseless and immoral conflict.

Surely when we look into our own consciences, we must know that saving lives is more important than saving face. And just as surely, we must judge the President's policy and our own by a single standard: Can they bring America's soldiers and prisoners home from Vietnam? For what we need is not a reason to prolong the agony of war, but a way to peace.

Most of us had hoped that this was what we would hear from the President last week. We had hoped for news of future negotiations that would succeed instead of past negotiations that have failed. We had hoped to see the President remove the war as an election issue by stopping the war before the election.

But again, as so often before, we find our hopes disappointed. We have now had the time to look closely at each of the eight points and listen carefully to all of the official explanations. We waited for a response from Hanoi. All we have heard is harsh criticism of the President's plan, and their official newspaper rejected it on Saturday.

Why are we at an impasse? What has our government really offered to the other side?

Most Americans thought they heard the President agree to set a date certain for our withdrawal. But it is not the genuine date certain so many of us have urged upon him. He did not offer to exchange our presence in Vietnam for the freedom of our prisoners. Instead, he laid down additional conditions: a general settlement of all outstanding issues or a ceasefire in all of Indochina.

As part of the general settlement, the President suggested the kind of elections already rejected by the other side—because they would be controlled by our side. The administration promises that such elections will be "free", the same promise that was made in every American proposal of the 1960s, the same promise that was broken in 1971, when we saw so clearly what we had purchased with our treasure and our blood: A democratic regime so undemocratic that its Presidential election was unfree, unfair, and uncontested. This time, General Thieu has volunteered to step down thirty days before the voting, but his hand-picked agents would continue to control the police; the province, district, and village chiefs; the whole machinery and force of government. What opponent would then risk his liberty or even his life in open opposition? How could anyone call such elections free?

The President has also offered the kind of ceasefire already rejected by the other side—because it would strengthen our side. The Administration claims that the principle of a ceasefire has been accepted by their negotiators as well as ours. But the administration's words cannot conceal a plain reality. Hanoi apparently proposes a ceasefire as part of a settlement on their terms—which our government rejects. The President proposes a ceasefire on our terms—which Hanoi rejects. Our kind of ceasefire would force the North Vietnamese to withdraw their forces in some unspecified fashion from South Vietnam, Laos, and Cambodia. We are asking them to stop fighting and concede Saigon's control over most of the countryside, abandoning their supporters to the police power of an enemy regime.

The President called for just such a ceasefire in his proposals of October, 1970. His proposals were turned down then. How could anyone expect a similar ceasefire offer to be anything but a stumbling block now? How could anyone expect Hanoi to settle for something which must seem to them nothing more than a date certain for their own surrender.

In short, in the face of a frustrating deadlock, the President has basically renumbered and reissued the proposals that have failed for six years. We are trying to win at the conference table what we have not won and cannot win on the battlefield. And yet we persist.

When will we ever learn?

We have no right to take for our own the awful majesty of God over life and death, destroying land and people in order to save them.

We have no right to kill, wound, or displace over a hundred thousand civilians a month by continuing to rain over four million pounds of bombs a day on Indochina.

We have no right to send young Americans to Vietnam as bargaining chips for the freedom of prisoners of war who would be free if those young Americans were not sent at all.

And we have paid so high a price for being wrong. We have seen 55,000 of our sons come home from Asia in coffins, twenty thousand of them in the last three years. We have seen hundreds of our soldiers captured or missing in action, four hundred of them in the last three years. We have seen countless Vietnamese killed and innocent children scarred and shot, and no number of years can erase the terrible memory.

There are those who say that if we sustain the pressure and stand the pain, we can fight on to victory. We have heard their voices before. We can only reply in the words of an ancient king: "One more such victory and we shall be undone."

So our task is to leave Indochina, to leave it to the Vietnamese to work out their own peace, not to determine their destiny according to a plan written in Washington.

There is only one way out of this war. We must take that way now, before further erosion in our troop strength and our bargaining position frustrates any chance to exchange American military disengagement for American prisoners in the North. This disengagement, I believe, would also set the stage for the Vietnamese to reach a political settlement among themselves. The President must stop throwing away that opportunity. He must commit this country to take two vital steps—not only because they are realistic—but because they are right.

First, we must set a date when we will withdraw every soldier, sailor, and airman, and stop all bombing and other American military activity, dependent only on an agreement for the return of our prisoners and the safety of our troops as they leave.

Second, we must urge the government in Saigon to move toward a political accommodation with all the elements of their society. Without such an accommodation, the war cannot be ended. And it is clear that the American people will not support an indefinite war either by our presence or by proxy.

We must turn toward peace. And we must face this fact: If we had learned anything in seven years, it is that we cannot bomb Hanoi into submission. We cannot bomb them into freeing our prisoners, anymore than we were able to bomb them to the conference table in the 1960's. We have learned that this disastrous course will not contain the spread of Communist power, will not strengthen our leadership among nations, and will only turn the people of Asia and indeed of all the world against us, as a country that is violating its deepest principles of morality and respect for human life and human rights.

We should never have gone to Vietnam. We should never have stayed there. A thirty-year-old Laotian mother in a refugee camp recently asked the only question still worth answering: "And, as for the other men and women, do they know all the unimaginable things happening in this war?"

We are the other men and women. We know the truth. How can we go on as we have . . . unleashing terror and destruction to prop up a corrupt dictatorship? Is this what America was made for? Is this what we want America to stand for in our time?

It took too much time for most of us to see the full depth of the tragedy in Vietnam. At first, there were only the quiet stirrings of doubt, then the public outcry of a few brave people, then the great debate over the bombing of the North. In the process, many of us learned that we had been wrong. And I say what I must now, not in righteousness, but in the conviction that we cannot and should not shrink from the truth.

This war has lasted far longer than anyone ever dreamed it could. It has drained us of our treasure and our spirit and our unity far beyond what we can possibly afford. It has brought tragedy and suffering to homes across the nation where young men will never return. It has brought doubt and division to our schools, our churches, and our communities. It has subverted our respect fo government and our ties with one another.

It is not an easy thing for a great country to admit a mistake. But it is perhaps the definition of greatness in a country that it can.

So what now must we say of Vietnam?

For the sons who have already died in battle, whose brothers should not have to follow them to war and to an early grave—

For the innocent people of a thousand Asian villages, people who may not know the name of their nation, let alone the cause of their dying—

For the American prisoners of war, who deserve something better than a life sentence or a slow death in foreign jails—

For all those who suffer in Indochina as we meet here—

For their sake and for our own—

We must be willing now—all of us—to say, "Enough."

IN TRIBUTE TO BILL HULL, A FINE CONGRESSMAN AND AN OUTSTANDING AMERICAN

Mr. SYMINGTON. Mr. President, those of us who have had the pleasure of knowing and working with my beloved friend and colleague, Representative WILLIAM R. HULL, JR., of the Sixth Congressional District of Missouri, were sorry indeed to learn of his decision not to continue his superb representation of his district in Congress.

BILL HULL has a long record of public service, as mayor of his hometown, Weston, Platte County, Mo., and in many civic activities. At the end of this year, he will have served 18 years in the Congress. During those years he has accomplished much for the Sixth District including many studies, authorization, planning and construction starts on water development and flood control projects north of the Missouri River.

As his colleagues in the House and in the Senate know well, this dedicated Representative has worked on these projects with diligence and effectiveness, first as a member of the House Committee on Public Works, and then, for the past 8 years, as a member of the House Committee on Appropriations.

In addition, Representative HULL has been one of the most conscientious and hard-working members of the Appropriations Subcommittee on Agriculture and Health, Education, and Welfare.

The high regard in which this great American is held by his constituents is evidenced by the fact that since 1954, when he first won the Democratic nomination in a three-way race by 27 votes, he has won renomination and reelection eight times, with strong majorities each time in a district that many observers consider marginal.

Many fine tributes have been paid the Congressman since his announcement that he plans to retire at the end of his present term. Typical of those was a statement made by Joseph R. Snyder, Gallatin, Mo., vice chairman of the Missouri Water Resources Board and editor and publisher of the Gallatin North Missourian, at a meeting of the Northwest Missouri Press Association in St. Joseph on January 21.

Not only the Sixth District, but all Missouri as well as the Nation, can only suffer loss because of his decision to retire, at least temporarily, from public life.

I ask unanimous consent that Mr. Snyder's remarks be printed in the RECORD; also an editorial written by another of Missouri's outstanding newspaper publishers, Jack Stapleton, Sr., which appeared in the Stanberry Headlight; also an article in the Kansas City Star by Joe Lastelic of the Star's Washington bureau.

Everyone who knows BILL HULL knows that throughout the present term, he will be working ceaselessly for his constituents and the people of Missouri and America.

Today it is my privilege to wish him well, not only this year, but in future years as he returns to his beloved home community, Weston, in order to spend more time with his family in the retirement he has earned so well.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

TRIBUTE TO CONGRESSMAN WILLIAM R. HULL, JR.

(By Joseph R. Snyder)

I am deeply honored to introduce the next individual, with some sadness, too, for this will be the last time he will appear before us in his present capacity, since only this week he announced that he will not seek another term in Congress. I am speaking, of course, of our good friend, Bill Hull.

I am sure that a congressman's job—just as it is for a conscientious editor—is not the easiest road for making one's way through life. Not only is it hard work, but it is a road on which one is forever forced to measure himself against what he ought to be, or ought to do. Even at best, one is constantly aware he could do much better if he were wiser, more gifted, more retentive and more responsive.

Of course with this agony, there is great satisfaction. There is solemn pride in serving the people and being a part of a great nation. There is excitement in seeing the world and observing first hand the scenes of crisis. There is satisfaction in knowing personally the men and women who are making the world we live in, and who influence its thought and its course of action.

This has certainly been true of my friend, Bill, because he has never isolated himself from the people—but has walked and talked among them to win a balance the top leaders can never know, but wish they could achieve.

It has been by privilege and pleasure to know him well. It is an association I have treasured. No one could have been more considerate and nicer to me and my family. I will remember Bill Hull as the man who did what he thought was best for the majority of the people in his district, even if it meant disappointing a few personal friends.

And if there was ever a more honest and sincere man in Washington, I have yet to meet him.

Ladies and gentlemen, with affection and appreciation for 18 years public service, I respectfully recognize Sixth District Congressman William R. Hull, Jr.

CONGRESSMAN HULL DECIDES NOT TO RUN

Many Democrats—and quite a few Republicans—were taken by surprise with the announcement by Congressman William R. Hull, Jr., that he would not again seek the office from the Sixth Congressional District. Many had believed that Mr. Hull would run again this year.

But in his nice statement of last week, Mr. Hull pointed out that he had held the office of Congressman from this district longer than any other man. That statement, of course, is absolutely correct.

What Mr. Hull didn't say and couldn't say was that he has served this Sixth district in an admirable manner. Those who have followed the career of Mr. Hull knew that he was a good Congressman. He was honest to the nth degree. He was conservative in everything he did.

And that conservatism is what attracted many Republicans to his banner. There was never an election that Bill Hull didn't grab off a great many Republicans who liked his way of thinking and liked the manner in which he operated in Washington.

Mr. Hull will have more time to spend with his family, as he pointed out in his statement. He was popular all over his district and that was evident in the fact that his elections generally saw him winning by a 20,000-vote majority.

It had seemed rather certain this year, that Congressman Hull would have opposition. That probably had no bearing on his decision, but it might have caused him to think a little in that direction.

Not everyone agreed with Congressman Hull. This newspaper did not always agree with him, but we never at any time doubted his honesty and his integrity. Congressman Hull will be missed in Washington. But he is certainly deserving of a long rest.

And the Sixth Congressional district will miss the gentleman from Weston. Our sincere good wishes go to Bill Hull wherever he may go and whatever he undertakes.

[From the Kansas City Star, Jan. 19, 1972]

HULL TO GIVE UP CONGRESS FOR FAMILY

(By Joe Lastelic)

WASHINGTON.—Rep. William R. Hull, Jr. (D-Mo.) reminisced today about his life, his service in Congress and why he decided to retire at the end of this year.

"I hate to go on and on and on," he said. "I want to be with my family. I want to spend more time with them."

A smile crossed his face as he looked at photographs of a granddaughter, Stacey, 4 years old. She is one of four grandchildren.

"My whole family is glad that I'm retiring," Hull said. "It is a rough thing to do. There are so many I've been with in these years, who have helped me and you think of those things, too."

Hull sat back in his chair, removed his tie and looked around the office at the certificates, plaques, awards, photographs, two honorary doctor of laws degrees and other mementos of 17 years in Congress. There are photographs with Presidents Kennedy and Johnson, Pope John XXIII and Pope Paul. And the delegations who have come to Washington through the years seeking Hull's assistance in their projects and endeavors.

What will he do with all of that, and the files, books and documents and accumulation of years?

"It's a question I'm wondering about," Hull said, laughing. "But I've got a year."

He talked about his mother and father, who left Kentucky when they lost their money and went to Weston, Mo., in search of a new life. They began there in a log cabin and his father worked for 50 cents a day. They farmed, raised tobacco and traded horses and reared a family of five boys and a girl. In those days of the early 1900s Hull said he never thought about someday serving in Congress.

"Sis," come in here," he called to his sister, Mrs. Daniel Lynch, who is receptionist in his congressional office. "I want to make sure I get this information correct."

His father was mayor of Weston, which meant taking the town's troubles home all the time, and that was about as far as the younger Hull thought he might want to go, he said. He served on the school board and other community enterprises and decided to run for mayor.

"Mother said she would work against you," Mrs. Lynch recalled, explaining that Mrs. Hull could remember all the troubles her husband had encountered as mayor.

Hull served one term.

"I wanted to get out there as fast as I could," Hull said, confirming that the job was no bed of roses.

Because his brother, George Hull, could not, Hull went to the Democratic National Convention in Chicago in 1952. There he met the speaker of the House of Representatives, Sam Rayburn, and Rep. Harold Cooley of North Carolina, and they suggested that he run for Congress. They promised to campaign for him.

"He came home and said he was going to run," Mrs. Lynch said.

Two years later the entire family was engaged in the campaign and Rayburn, Cooley and Sen. Lister Hill of Alabama kept their promises and campaigned with Hull. He won the Democratic primary by just 27 votes and then unseated the incumbent, Rep. William Cole, a St. Joseph Republican.

When he took the job he had to give up fishing, his favorite sport. When he retires, Hull said he wants to go back to Missouri and try his luck at the farm ponds and the big reservoirs he has seen built in the 6th District in Northwest Missouri.

Since his first victory Hull has won reelection eight times with margins of about 20,000 votes. He is a conservative, like his district. The district is evenly balanced with Republicans and Democrats, and Hull's voting record also reflects that.

Hull has an easy-going and friendly manner and believes in the committee system and in teamwork, and he has made many friends in Congress. His office follows a policy of prompt attention to inquiries from constituents.

"If we can help people, that's what I like," he said. "I've always felt that way about it."

He is distressed at the turmoil in this country, the tearing down of old institutions, discarding of things he believes are honorable and right, the pressures both in and out of Congress for changes he feels are not in the interests of the nation. Yet he is confident that the future is bright. He summed up his philosophy as a public servant:

"I do what I think I should do," he said. "I have never bowed to pressure and the people have supported me."

Hull plans to return to his home and 128-acre farm near Weston. His daughter and grandchildren and his brothers and their families live there. His wife died in 1950.

"AS OBSERVED FROM BERLIN," BOOK BY AXEL C. SPRINGER

Mr. TOWER. Mr. President, the book "As Observed From Berlin (Von Berlin aus gesehen)", written by Axel C. Springer, one of the most distinguished publishers on the continent of Europe, was published recently in West Germany. Mr. Springer has done a great deal for the free press in Germany. His spectacular success story in post-World War II Europe is an outstanding proof of the viability of the free enterprise system. I ask unanimous consent to have printed in the RECORD some excerpts from the foreword and epilog to this remarkable book:

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

FROM THE FOREWORD BY THE PUBLISHER HANS WALLENBERG

The book is a testimony to the involvement of the man who as a publisher and an active newspaperman has expressed his opinions with conviction on the crucial problems of our times. The book is also a testimonial to his radical anti-radicalism, to his absolute rejection of any fanatic opinion whether it is being voiced from the left or right. If there ever was an uncompromising man of the middle, the book makes it clear that this man is Axel Springer.

FROM THE EPILOG BY BARON KARL THEODOR VON UND ZU GUTTENBERG

It is primarily due to the newspapers published by the Axel Springer Publishing House that German public opinion has been kept informed about the details of the present government's ambiguous Eastern policy. In particular, however, it was Axel Springer himself, notwithstanding all personal accusations and defamations nowadays connected with opposing Ostpolitik in the Federal Republic, who raised his voice to warn that the German Government is helping the Soviet Union, the coldest of all cold-war warriors, to achieve a dominant position over the entire Europe.

A democracy needs politically dedicated publishers who openly and frankly express their opinions. Axel Springer is one of those honest people without whom society would decay. He makes his statements regardless of whether what he says pleases the majority or minority of the nation. Springer's attitude is being disposed of with demagogic slogans by his adversaries. For many leftwingers he is simply the man to be booded down, denied discussion and on whom defamatory labels are being pinned. He is the "reactionary," the "nationalist," the "German Nationalist of the Hugenberg type," the "capitalist," the "revanchist," the "partisan of the cold war." For those for whom that list of insults is too reminiscent of the Moscow or East German vocabulary, he is a visionary or a harmless political dreamer.

It is true that Axel Springer is one of those who did not lose hope for a better future for our nation.

The present policy of the Soviet Union is the continuation of the cold war with the use of new means. There is not a single, and I repeat, not a single shred of evidence available that Moscow gave up its revolutionary and expansionist aims. On the contrary, the Soviet Union is striving towards these objectives on all political and geographic fronts with the same intensity and consistency as heretofore on all continents, on all seas and with all means. How would it then be possible for the West or for the Bonn government alone to hope to end the cold war which is being waged by Moscow?

Having its objectives in view, the Soviet Union is not shy, naturally, to constantly use the term "status quo," and "recognition of the actual situation." However only people who are blind or do not want to open their eyes because they are afraid of the facts, could overlook the meaning of the Soviet Union's understanding of the term "recognition of the actual situation," which comprehends as an inevitable "historical process" of the expansion of the Communist ideology, with the constantly growing military power of the Soviet Union being the important component. The status quo which we would have to accept under Moscow control is only a camouflage for a continuous enlargement of the Pax Sovietica and of the Soviet imperialism.

I share with Axel Springer the doubtful "privilege" of being reviled as a reactionary and a cold war advocate. The attempt is being made to leave the impression that whoever speaks out against Brandt's Eastern policy, is a peace-hating nationalist. The truth is quite different. I have no intention to call the nebulous messianism which constitutes the tone of the present Eastern policy "a betrayal of the nation." The word "betrayal," concerning the present course of the government, has been used by the same leading Social Democrats, before their surprising change in the winter of 1969–1970. The opponents of this course believe, and in this respect I am in agreement with Axel Springer, that it is imperative to resist a dangerous and shattered illusion of peace which is going to be pushed through by a slimmest parliamentary majority. Our goal will remain a real peace, recognized by the whole German people, peace with the Soviet Union, as well as with Poland and with other East European countries. There is however one unequivocal and uncompromising precondition for this peace and this is the respect for the right of self-determination of the Germans.

This train of thoughts is in evidence in many speeches and articles of Axel Springer, published in this book. There are the statements of a sincere German Democrat, who is concerned about world peace and the freedom rights for his people

ENGINEERS' WEEK

Mr. GRAVEL. Mr. President, in Alaska the week of February 20–26, 1972, has been set aside by Gov. William A. Egan as Engineers' Week. I know that Senators will want to join with Alaskans in the observance of this event. I ask unanimous consent that the Governor's proclamation be printed in the RECORD.

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

PROCLAMATION—ENGINEERS' WEEK

Engineering is the profession in which a knowledge of the mathematical and physical sciences gained by study, experience, and practice is applied with judgment to develop ways to utilize, economically, the materials and forces of nature for the progressive well-being of mankind in creating, improving, and protecting environment, in providing facilities for community living, industry, and transportation, and in providing structures for the use of mankind.

Members of the profession in Alaska in cooperation with other agencies have continued to serve the public in the aforementioned manner.

It is appropriate that the profession be recognized at a time when we celebrate the birthday of George Washington, one of America's first engineers.

Engineers' Week provides an opportunity for the public and the engineering profession to become more mutually acquainted and the public, therefore, to better understand the works of engineers.

Therefore, I, William A. Egan, Governor of Alaska, do hereby proclaim and call upon the people of our State to observe the week of February 20 through 26, 1972, as Engineers' Week in Alaska, and I urge all citizens of Alaska to join in extending recognition and honor to our engineers.

Dated this 14th day of February, 1972.

WILLIAM A. EGAN,
Governor.

POLISH-AMERICAN CULTURE AND THE AMERICAN FOLKLIFE FOUNDATION ACT

Mr. HARRIS. Mr. President, I invite the attention of Senators to an article entitled "Polish Dancers Nurture Cultural Heritage" which was published in the January 10 edition of the biweekly Midland Cooperator.

As Carol James, the article's author, writes:

Anyone who thinks symphonies, ballets, and classical music have a corner on culture had better trade his baby grand piano for a concertina and hock his opera tickets for a seat on the next bus bound for Thorp, Wis.

There, one will find a group of Thorp residents who have been nurturing their Polish cultural heritage for the last 35 years.

At least once a month, according to the article, they get together, clothed in traditional Polish dress, to dine and dance classical Polish dances. In addition, the group has been active in maintaining other aspects of Polish culture such as language, music, and history.

Mr. President, this kind of pride in one's cultural heritage is healthy for America. It is the diversity of our people, and the unique gifts each of our many cultures possess, that have contributed to the vitality and strength of our Nation. America is not a melting pot, and it ought not to be. Mr. President, I have introduced a bill, S. 1930—the American Folklife Foundation Act—which recognizes that principle and would therefore help to promote and preserve this country's rich folklife traditions. Polish-American culture is certainly a colorful part of that tradition.

Mr. President, I ask unanimous consent that the article be printed in the RECORD, along with a copy of S. 1930, the American Folklife Foundation Act, and my remarks upon introducing it.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

POLISH DANCERS NURTURE CULTURAL HERITAGE

(By Carol James)

When Joan Kennedy reads Peter and the Wolf with the Boston symphony orchestra—that's culture. When Rudolf Nureyev goes on tour with the London Ballet—that's culture.

But anyone who thinks symphonies, ballets and classical music have a corner on culture had better trade his baby grand piano for a concertina and hock his opera tickets for a seat on the next bus bound for Thorp, Wis.

Upon arriving in Thorp he'd meet people whose names are more difficult to pronounce than Rockefeller, Kennedy or Henry Cabott Lodge. But in terms of culture, the residents of Thorp have it. They've been nurturing their Polish cultural heritage for 35 years.

Sixteen couples of Polish ancestry get together to dine and dance classical Polish dances at least once a month. Sometimes the group is invited to perform at towns surrounding Thorp in north central Wisconsin.

Should you happen in on one of the Thorp Polish Dancers' monthly soirees, you'll find the Mssrs. Burzynskr, Truckey, Pszenczny, Kotecky, Ogurek, Mroz, Bieno, Buresh, Slipek Strzok, Slowiak, Ciolkosz and Jakobowicz decked out in satin-lined coats with long tails to wear dancing and dining.

On the men's arms are Polish-costumed ladies wearing flouncy white blouses with red or black sequined vests forming petals ringing their waists.

When the dancers whirl around the dance floor at the Thorp American Legion Hall, satin coattails swirl and yards of ribbon twirl to the beat of Polish concertina music, to the click of men's gallant knee-high black boots and to shouts of "Whoopee . . ."

The Krakowiak-costumed couples dance for hours the traditional steps of their forebearers. By the time an evening's dance is over, they've performed everything from the stately and aristocratic Polonaise to the rowdy "Pillow Dance," which calls for exuberant kissing, hugging and circling laced with strains of a lively polka.

"Our costumes are the traditional dress of one of the districts in Poland. But the dances we perform come from all over Poland," Joe Truckey, a leader of the Thorp dancers group, explains.

The group has been active to maintain the traditional Polish dances and other aspects of Polish culture in Thorp since 1937. Al Ciolkosz, founder of the group, has held rehearsals through the years in Polish dancing, singing and marching and he has given lessons in Polish history. He even taught Polish in a rural Thorp elementary school for a number of years.

Members of the Polish National Alliance in Minneapolis have worked with the Thorp Polish Dancers from time to time to make sure their steps are accurate renditions of the classical Polish dances.

"Until we joined this group, many of us knew very little about our Polish heritage," Ed Bieno, a member of the group and a Thorp banker, says. "It makes us much more aware of what being Polish really means."

Animated conversations in Polish can be heard during breaks in the dancing. Even some of the teenagers, who share with their parents an active interest in the Polish folk dancing group, can speak some Polish.

Sometimes Americanisms creep in during an evening of Polish culture. A cheerleader, for instance, arrives at the hall after a basketball game between Thorp and a rival team, and all of the costumed dancers are anxious to hear the outcome.

The potluck buffet dinner the dancers enjoy following their activities also looks a bit American—slices of boneless ham, potato salad and gelatin fruit salads. But redeeming the meal as ethnic is a large platter of homemade Polish dill pickles. And the pickles disappear faster than anything else on the table.

During the meal, several dancers admire one woman's long fringed red scarf. Upon learning the scarf is from Warsaw, another says, "Of course it's beautiful—it's from Poland."

Across the dance hall another person wears a button that says "Polish Power."

It's people like those with the difficult last names in places like Thorp, Wis., who remind the culture-seeker that culture can't be cornered and boxed and sent in the mail as this month's phonograph record selection. Culture has to be nurtured through the years to survive.

[From the CONGRESSIONAL RECORD, May 24, 1971]

S. 1930

By Mr. HARRIS (for himself, Mr. CRANSTON, Mr. FULBRIGHT, Mr. GRAVEL, Mr. HUMPHREY, Mr. MONDALE, Mr. RANDOLPH, and Mr. STEVENSON):

S. 1930. A bill entitled "American Folklife Foundation Act." Referred to the Committee on Rules and Administration.

AMERICAN FOLKLIFE FOUNDATION ACT

Mr. HARRIS. Mr. President, I introduce today a bill that would create an American Folklife Foundation within the Library of Congress. Through this Foundation, vital public support would be lent to a wide-ranging effort designed to foster both a broader and deeper understanding of this country's rich folklife. I am very pleased to be joined in the introduction of this legislation by seven cosponsors: Senators CRANSTON, FULBRIGHT, GRAVEL, HUMPHREY, MONDALE, RANDOLPH and STEVENSON.

Without question, we have been wise to invest millions of dollars in the proud work of the National Endowments of the Arts and Humanities, and we have done well as a people and as a government to build here in Washington the John F. Kennedy Center for the Performing Arts, so that this civilization might appreciate and foster fine arts and high culture. But for too long, Mr. President, our public moneys have supported a Western European cultural tradition almost to the exclusion of the many noble cultures that are homegrown throughout this country.

American cultures have not been viewed with the pride they warrant; too often, they have been scorned as the life-style of an uncultured lower class. Nothing American was allowed to bear the label "culture." We had had no national policy of appreciation and support for America's folklife.

The legislation proposed here today is an effort to invest in the culture of America's common man. It says that the country fiddler need not feel uncultured simply because his fiddle does not produce a concert tone; it says that the pottery of Jugtown, N.C., and the sand-painting of Southwestern Indians are artistic treasures in the same sense as those from the dynasties of China; it says that the black bluesmen along the Brazos Valley in Texas are recognized as pure artists and welcome as a national treasure; it says that the American Indian philosopher has something urgently important for America today and that this society wants to hear him as well as the ancient Greeks; it says that the total lifestyles of Swedish-Americans in Milwaukee, of Polish-Americans in Chicago, and of Italian-Americans in Boston have brought a perspective and a contribution to this country that has ennobled us as a society; and it says that the bluegrass band has developed a music with a complexity and a richness that will grow and that will endure always as a living monument to American musical genius. In short, the bill I am proposing says that there is a vast cultural treasure in American's common man, and that our society will be a better one if we focus on that tresaure and build on it.

Before going further, it probably would be useful to stress what we mean in this bill when we say "folklife." All too often, people think of folklife as something out of the hills, and they frequently think of it only in terms of folk music. These impressions are incorrect. We are concerned in this legislation with folklike in its broadest sense—perhaps best summed up as the total lifestyle of peoples—and we are concerned about it everywhere in America—in cities as well as in small towns and rural areas. The legislation defines folklife as "the traditional customs, beliefs, dances, songs, tales, sayings, art, crafts, and other expressions of the spirit common to a group of people within any area of the United States; the term includes, but is not limited to, music (vocal and instrumental), dance, drama, lore, beliefs, language, humor, handicraft, painting, sculpture, architecture, other forms of creative and artistic expression, and skills related to the preservation, presentation, performance, and exhibition of the cultural heritage of any family, ethnic, religious, occupational, racial, regional or other grouping of American people."

Most important, Mr. President, this bill considers folklife as a dynamic force in today's society and not simply as something out of our past. The American Folklife Foundation will be concerned with the past and will enable scholars and field researchers to give us all a better understanding of the cultural history of America. The need adequately and accurately to record our history cannot be doubted. This should be a proper concern of the Federal Government; however, at the moment no Federal program is designed to meet this need insofar as the folklife of the country is concerend. But the purpose of all this is not simply to know what was and then to store it in an archive to gather dust. Rather, we are interested in bringing the American folklife of 200 years ago, as well as the folklife of 20 years ago, to bear on the daily lives of today's Americans. While we contemplate pure academic research in this bill, we contemplate much more than that. We contemplate dissemination and presentation of America's folklife in such a way that it can bring understanding and perhaps even some wisdom to the decisions that our people—both individually and as a society—must make today and tomorrow. This is not to say that this little bill is going to produce wisdom or is going to make the difference in the quality of our lives, but it is to say that this bill at least will finally allow us to count our folk cultures as a force working toward wisdom and quality in life.

Perhaps the most important aspect of this legislation is that it recognizes, accepts, and builds on the fact that America is not a

melting pot and that there is no such thing in this country as a homogenized mass culture.

This is a union of individuals. America is a mosaic of cultures, not a blend. Too often, we have failed to treat our differences with respect. The truth is that we do not know each other well enough. Some only know that Germans live in Nebraska, that Chicanos are in the barrio, that a lot of Scots can be found in Appalachia, that many Poles live in and around Chicago, that smalltown blacks live on the other side of the tracks, and that there are Amish in Pennsylvania, but we do not know how they live.

To complicate this lack of understanding, the overwhelming forces of technology and bureaucracy tend to deny us our humanity and to stifle our expressions of individuality. In this climate of alienation and anxiety, we need to know ourselves if we are to know each other. One way to accomplish this is to enlarge upon folk lifestyles and to seek as many outlets as possible for the expression of American cultures. That is what this bill is about. The American Folklife Foundation will give the American people a chance to express themselves.

Mr. President, the substance of this bill was introduced in 1969 by former Senator Ralph Yarborough of Texas, and I am privileged to carry on the outstanding effort that he began. In May of 1970, Senator Yarborough held hearings on the bill and reported it from the Labor and Public Welfare Committee, but the 91st Congress adjourned before the full Senate was able to act. I hope we can have hearings on this measure very soon, and it is my deep hope that the Senate will see fit to enact the proposal in this session of Congress. There is great strength in the folklife of this Nation. Strength which has not been fully understood and certainly not used to the fullest. A companion bill is being introduced on the House side by Mr. Thompson of New Jersey, and it is hoped that quick action also can be had in that body so that we are able soon to create the American Folklife Foundation and to fund it to begin this very important work.

SECTION-BY-SECTION ANALYSIS OF AMERICAN FOLKLIFE FOUNDATION ACT

SECTION 1

This section states the purpose of the Act to be that of supporting research and scholarship in American folklife in order to contribute to an understanding of the complex problems of the basic desires, beliefs and values of the American people in both rural and urban areas, and that, among other things, it is in the interest of the general welfare of the nation to preserve, support, revitalize and disseminate American folklife traditions and arts.

SECTION 2

This section contains the definitions and defines "American folklife" as the traditional customs, beliefs, dances, songs, tales, sayings, art, crafts and other expressions of the spirit common to a group of people within any area of the United States.

SECTION 3

This section provides that the American Folklife Foundation should be established within the Library of Congress.

The Foundation is subject to the supervision of a twelve member Board of Trustees, four to be appointed by the President and eight by the Librarian of Congress.

A Director and Deputy Director, to be appointed by the Librarian, would be the principal directing officers of the Foundation.

SECTION 4

This section sets forth the authority of the Foundation. The Foundation would be empowered to establish and implement a program of contracts, grants, loans, and scholarships with individuals and groups in order to record and to promote American folklife.

SECTION 5

This section places certain limitations on the grants. No payments shall be made to carry out research or training over a period in excess of two years, except with the concurrence of two-thirds of the members of the Board of the Foundation. A limitation on grants to former employees of the Federal Government is also provided for in this section.

SECTION 6

This section gives the Foundation administrative authority to carry out the purposes of the Act.

SECTION 7

This section authorizes to be appropriated such sums as may be necessary to carry out the provisions of the Act.

Mr. President, I ask that the bill be printed at this point in the RECORD.

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

S. 1930

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "American Folklife Foundation Act".

DECLARATION OF PURPOSE

SEC. 2. The Congress hereby finds and declares—

(a) that American folklife has lent strength to the American people and to the Nation;

(b) that the diversity inherent in American folklife has contributed greatly to the cultural richness of the Nation and has fostered a sense of individuality and identity among the American people;

(c) that the history of the United States effectively demonstrates that building a strong nation does not require the sacrifice of cultural differences;

(d) that American folklife has a fundamental influence on the desires, beliefs, values, and character of the American people;

(e) that it is appropriate and necessary for the Federal Government to support research and scholarship in American folklife in order to contribute to an understanding of the complex problems of the basic desires, beliefs and values of the American people in both rural and urban areas;

(f) that the encouragement and support of American folklife, while primarily a matter for private and local initiative, is also an appropriate matter of concern to the Federal Government;

(g) that it is in the interest of the general welfare of the Nation to preserve, support, revitalize, and disseminate American folklife traditions and arts;

(h) that in order to implement these findings, it is appropriate to establish in the Library of Congress an American Folklife Foundation to develop, promote, and implement a broadly conceived national policy of support for American folklife.

DEFINITIONS

SEC. 3. As used in this Act—

(a) the term "American folklife" means the traditional customs, beliefs, dances, songs, tales, sayings, art, crafts, and other expressions of the spirit common to a group of people within any area of the United States; the term includes, but is not limited to, music (vocal and instrumental), dance, drama, lore, beliefs, language, humor, handicraft, painting, sculpture, architecture, other forms of creative and artistic expression, and skills related to the preservation, presentation, performance, and exhibition of the cultural heritage of any family, ethnic, religious, occupational, racial, regional, or other grouping of American people;

(b) the term "group" includes any State or public agency or institution and any nonprofit society, institution, organization, association, or establishment in the United States;

(c) the term "State" includes in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, and the Virgin Islands;

(d) the term "workshop" means an activity the primary purpose of which is to encourage the development of skills, appreciation, or enjoyment of American folklife among amateur, student, or nonprofessional participants, or to promote scholarship or teaching among the participants.

ESTABLISHMENT OF FOUNDATION

SEC. 4. (a) There is hereby established in the Library of Congress an American Folklife Foundation (hereinafter referred to as the "Foundation").

(b) The Foundation shall be subject to the supervision and direction of a Board of Trustees (whereinafter referred to as the "Board"). The Board shall be composed of four members appointed by the President by and with the advice and consent of the Senate, eight members appointed by the Librarian of Congress by and with the advice and consent of the Senate, the Librarian of Congress ex officio, and the Director of the Foundation ex officio. The four members appointed by the President shall be officials of Federal departments and agencies concerned with some significant aspect of American folklife traditions and arts. The eight members appointed by the Librarian of Congress shall be individuals from private life who are widely recognized by virtue of their scholarship, experience, creativity, or interest in American folklife traditions and arts. In making appointments from private life, the Librarian shall give due consideration to individuals suggested to the Librarian by the Board and shall provide for regional balance in the membership of the Board.

(c) The term of office of each appointed member of the Board shall be six years; except that (1) the term of members first taking office shall be two years for three members appointed and so designated by the Librarian, two years for two members appointed and so designated by the President, four years for three members appointed and so designated by the Librarian, and four years for one member appointed and so designated by the President, and (2) any member appointed to fill a vacancy occurring prior to the expiration of the term to which his predecessor was appointed shall be appointed for the remainder of such term.

(d) Members of the Board who are not regular full-time employees of the United States shall be entitled, while serving on business of the Foundation, to receive compensation at rates fixed by the Librarian, but not exceeding $100 per diem, including travel time; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by Section 5703 of Title 5, United States Code, for persons in Government service employed intermittently.

(e) The Librarian shall call the first meeting of the Board, at which the first order of business shall be the election of a Chairman and a Vice Chairman, who shall serve for a term of one year. Thereafter each Chairman and Vice Chairman shall be elected for a term of two years. The Vice Chairman shall perform the duties of the Chairman in his absence. In case of a vacancy occurs in the Chairmanship or Vice Chairmanship, the Board shall elect a member to fill the vacancy for the remainder of the unexpired term.

(f) A majority of the members of the Board shall constitute a quorum.

(g) There shall be a Director and a Deputy Director of the Foundation, who shall be appointed by the Librarian, by and with the advice and consent of the Senate. In making such appointments the Librarian shall give due consideration to any recommendation submitted to him by the Board. The Director shall receive compensation at the rate provided for level V of the Federal Executive Salary Schedule, and the Deputy Director shall receive compensation at a rate not to exceed G.S. 18 of the General Schedule under Section 5322 of Title V of such Schedule. Each shall serve for a term of six years unless previously removed by the Librarian.

(h) The Director shall be the chief executive officer of the Foundation. He shall carry out the programs of the Foundation subject to the supervision and direction of the Board, and shall carry out such functions as the Board may delegate to him consistent with the provisions of this Act.

(i) The Deputy Director shall perform such function as the Director, with the approval of the Board, may prescribe, and shall serve as acting Director during the absence or disability of the Director or in the event of a vacancy in the office of the Director.

AUTHORITY OF FOUNDATION

SEC. 5. The Foundation is authorized to establish and implement a program of contracts, grants, loans, and scholarships with individuals and groups in order to—

(a) initiate, promote, support, organize, and produce live performances, festivals, exhibits, and workshops related to American folklife;

(b) initiate, encourage, support, organize, and promote research, scholarship, and training in American folklife:

(c) establish and maintain in conjunction with any Federal Department, agency, or institution a national archive and center for American folklife;

(d) procure, receive, purchase, and collect for preservation and storage in the archive appropriate paintings, creative works, exhibitions, presentations, objects, materials, artifacts, and audio and visual records (including still and motion picture film records, audio and visual magnetic tape recordings, written records, and manuscripts) which represent or illustrate some aspect of American folklife;

(e) loan, lease, or otherwise make available any item in the archive to any individual or group under such terms and for such uses as the Board deems appropriate;

(f) purchase, receive, product, or arrange and support the producton of exhibitions, displays and presentations (including presentations by still and motion picture films, and audio and visual magnetic tape recordings) which represent or illustrate some aspect of American folklife;

(g) present, display, exhibit, disseminate, communicate, and broadcast to local, regional, state, or national audiences any exhibition, display, or presentation produced pursuant to subsection (d) of this section or any item in the archive established pursuant to subsection (c) of this section, by making appropriate arrangements, including contracts, loans, and grants with public, non-profit, and private radio and television broadcasters, museums, educational institutions, and other individuals, and private or non-profit corporations as the Board deems appropriate;

(h) purchase, receive, produce, and arrange for and support the production of exhibitions, programs, presentations, and materials specially designed for classroom use representing or illustrating some aspect of American folklife, and to loan, lease, or otherwise make available such exhibitions, programs, presentations, and material to public, private, and nonprofit educational institutions;

(i) develop and implement other appropriate programs to preserve, support, revitalize, and disseminate American folklife.

LIMITATION ON GRANTS

SEC. 6. (a) No payment shall be made pursuant to this Act to carry out any research or training over a period in excess of two years, except that with the concurrence of at least two-thirds of the members of the Board of the Foundation such research or training may be carried out over a period of not to exceed five years.

(b) No individual formerly in the employment of the Federal government shall be eligible to receive any grant or other assistance pursuant to this Act, or to serve as a trustee of the Foundation, in the two-year period following the termination of such employment.

ADMINISTRATIVE PROVISIONS

SEC. 7. In addition to any authority vested in it by other provisions of this Act, the Foundation, in carrying out its functions, is authorized to—

(a) prescribe such regulations as it deems necessary governing the manner in which its functions shall be carried out;

(b) receive money and other property donated, bequeathed or devised, without condition or restriction other than that it be for the purposes of the Foundation; and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

(c) in the discretion of the Foundation, receive (and use, sell, or otherwise dispose of, in accordance with paragraph (b)) money and other property donated, bequeathed, or devised to the Foundation with a condition or restriction, including a condition that the Foundation use other funds of the Foundation for the purpose of the gift;

(d) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of the Act without regard to the provision of Title V, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but no individual so appointed shall receive compensation in excess of the rate received by the Deputy Director of the Foundation;

(e) obtain the services of experts and consultants in accordance with the provisions of Section 3109 of Title 5, United States Code, at rates for individuals not to exceed $100 per diem;

(f) accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by Section 5703 of Title 5, United States Code;

(g) enter into contracts, grants, or other arrangements, or modifications thereof, to carry out the provisions of the Act, and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the Board, be entered into without performance or other bonds and without regard to Section 3709 of the Revised Statutes, as amended (41 U.S.C. 5);

(h) make advances, progress, and other payments which the Board deems necessary under this Act without regard to the provisions of Section 3648 of the Revised Statutes, as amended (31 U.S.C. 529);

(i) rent office space in the District of Columbia;

(j) make other necessary expenditures.

The Foundation shall submit to the Library of Congress for inclusion in its annual report to the Congress an annual report of its operations under this Act, which shall include a detailed statement of all private and public funds received and expended by it, and such recommendations as the Foundation deems appropriate.

AUTHORIZATION

SEC. 8. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

EDITORIAL SUPPORT FOR NEW EMERGENCY TRANSPORTATION LAW

Mr. PACKWOOD. Mr. President, on February 8, the Senate finally addressed itself to the crippling dock tieup on the west coast which to this very day, in spite of our legislation, is still strangling commerce into and out of west coast ports. The Nation's farmers are, as might be expected, the hardest hit by this breakdown in our vital waterborne transportation system. The Agriculture Department is estimating that our farmers' losses will total over $1 billion, and that it will take at least 15 years to reestablish trading patterns with foreign nations, patterns which have been disrupted and sometimes severed altogether during the course of the last 7 months.

Although the PMA and the ILWU have tentatively agreed on a settlement and there is wide spread optimism that the docks will soon be open for commerce again, untold and irreparable damage has been done. Furthermore, we are still facing a large number of potential transportation disputes in the next 18 months, any one of which could bring this Nation's commerce to its knees, and repeat the tragic story of the last 7 months.

Mr. President, my State of Oregon has long since recognized the need for new statutory procedures which will give the President new options and authority to protect the public interest in the event of regional or national emergencies resulting from unresolved transportation disputes. In my judgment, and I think most Oregonians would agree, no union or industrial baron should have a life-or-death power over the livelihoods, health, and safety of the rest of the Nation or region. Free collective bargaining should be protected and fostered, but when the public interest is clearly threatened, the President should have the authority he needs to prevent the sort of paralysis and long-term damage which has resulted from the west coast tieup.

The President does not currently have any additional authority beyond the 80-day cooling off period provided for in the Taft-Hartley Act of 1947. If the dispute is not resolved during the 80 days, there is no remedy, no way to protect the public, except by resort to congressional intervention. Legislation which I have introduced would eliminate congressional interference by giving the President three new options to deal with emergency transportation disputes, after the 80-day cooling off period has expired without a settlement.

Mr. President, I am firmly convinced that Congress is far behind the public in seeing the desperate need for new options in the face of crippling emergency transportation tieups. On February 7, I placed in the RECORD 18 editorials from major newspapers around the country. Each pointed up the failure of Congress to act on one of the very most serious and

obvious problems facing our economy today, the ability of a handful of union or management powers to literally ruin millions of individuals and businesses who play no part in their dispute but are nevertheless dependent on vital transportation services for their livelihoods.

Mr. President, Congress has acted to meet the latest emergency, but the editorial support for new permanent procedures to deal with emergency transportation disputes still remains. The public will not forget that we have not yet met our responsibility, nor will the great newspapers of this Nation forget. Their vigilance is a proud hallmark of this democracy, and I am confident that their interest and attention will remain focused on this issue until it is finally resolved with new permanent legislation.

I ask unanimous consent that four recent editorials from the Oregonian, Oregon Journal, Eugene Register-Guard, and Los Angeles Times, each written since Congress approved the dock strike resolution, and each citing the need for new permanent legislation, be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Eugene Register-Guard, Feb. 10, 1972]

GET ON WITH IT

Whether or not the West Coast dock strike is settled by labor-management compromise before the President insures settlement by compulsory arbitration, Congress should proceed with legislation to protect the nation against recurring economy-crippling major industry tieups.

Time and time again, especially in transportation industry disputes, it has been proved that the general public, not the warring factions, ends up paying the most because of Congress timidity about infringing upon principles of free collective bargaining.

In the case of the West Coast dock strike, the longshoremen will emerge with guideline-exceeding wage gains—and, apparently with a guaranteed annual wage, plus other important benefits. In their turn, the shipping interests can pretty well depend that if these strike settlement terms prove too heavy a load for them, the federal government will bail them out one way or another.

Ultimately, the cost will fall upon the general American public. And it will be added to direct losses that West Coast residents have suffered in lost business opportunities during the prolonged strike. Those losses alone have been estimated in excess of two billion dollars.

Experts in the field of labor relations differ in their views about how the public interest should be safeguarded against hardships inflicted as the result of big battles between big labor and big business. Some favor making the certainty of compulsory arbitration simply a matter of due course in instances where strike or lockout effects become too drastic. Others lean toward the establishment of special labor courts and the ending of union-management impasses through specially developed processes of law.

But, except in the circles of organized labor and multimillion-dollar managements, there remains little doubt that the nation's lawmakers must provide better than 13th hour ad hoc solutions for titanic labor-management struggles.

Mounting public opinion is that the sooner Congress acts to recognize that rights of the general public are at least equal to those of labor and management, the better the economic well-being of all Americans will be protected.

[From the Oregonian, Feb. 10, 1972]

STRIKE ISSUE REMAINS

It was the imminence of congressional approval of the Nixon Administration's bill to end the West Coast longshore strike that brought the "tentative" agreement between the negotiators at San Francisco, after 124 days of idle ports, lost markets and an estimated $1.4 billion cost to workers, growers, shippers and industry generally and Oregon's lumber industry in particular.

Has Congress got the message? The American people are completely fed up with strikes and lockouts in major industries, particularly in transportation, that add to long-term unemployment, cause business to stagnate and cripple farmers. The national welfare supersedes the "right" of a handful of workers or an intransigent group of employers to do violence to the livelihood of millions of others.

Putting aside the reluctant agreement of members of the Pacific Maritime Association to pay ransom to the International Longshoremen's and Warehousemen's Association for containerization and other benefits of automation and mechanization, the responsibility of Congress remains paramount.

The threat of specific action to send the longshoremen back to the docks and settle their grievances in a fair manner by binding arbitration would not have been necessary had Congress acted earlier on national emergency strike legislation submitted two years ago by President Nixon. And the danger of more such tieups, if not a resumption of this one, will not be removed until Congress does adopt a law such as that introduced by Sen. Bob Packwood of Oregon.

The inadequacy of the Taft-Hartley Act has been demonstrated fully by the economic harm done by the unconscionably long paralysis of Pacific ports. Settlement of this strike does not in any degree lessen the responsibility of Congress to enact permanent legislation to protect the national health and welfare in the future. The issue has been avoided too long. Congress must heed the words of Rep. John Dellenback of Oregon's Fourth District, who said:

"Whether or not the issues have been settled, the dock strike has provided an unfortunate lesson for Congress: Unless we create some mechanism to protect innocent citizens from the harmful effects of prolonged strikes which imperil the national health or safety, Congress will be asked to settle strike after strike."

That is an intolerable situation and one the American people are not going to accept any longer. Nor is there any valid reason why the people's elected representatives in Congress refuse to act.

[From the Los Angeles Times, Feb. 11, 1972]

THE STRIKE IS OVER: PROBLEMS REMAIN

Reopening of the West Coast ports will be welcome, but a lot more needs fixing before there is cause for celebration.

It now appears likely that the longshoremen will ratify the agreement of the negotiators. That provides contract increases of more than 34% over the next 18 months and an agreement to leave to binding arbitratian the unresolved work rule questions.

If that doesn't work, there is standby emergency legislation which permits the President to impose a settlement through a three-man arbitration board.

The whole thing may come unravelled, however, through further labor disputes, for the Teamsters are not a bit happy about incentives to cut them out of container handling, or through a Wage Board veto, for the tentative agreement does violence to the board's 5.5% per year pay increase guideline.

Basically it is bad that the normal economic pressures did not work to bring agreement between the longshoremen and the Pacific Maritime Assn. This is the fifth transportation strike in two years that has been the object of special federal legislation. But there was, this time, a faint note of encouragement. The Senate came closer than ever before to doing something permanent about the problem.

President Nixon in 1970 proposed Emergency Public Protection legislation. It has been about as popular as Asian flu in a Congress where organized labor has considerable muscle. But in the frustration of the dock strike, a move to substitute this legislation won 39 votes in the Senate, and there were hints that more votes may be forth coming. That much support may at least produce committee hearings on the President proposal.

His ideas deserve study. Included is a novel form of arbitration which would encourage the normal process of mediation by focusing the arbitration on the last best offer of each side. But compulsory arbitration in any form scares many people, not just labor leaders.

There is no question that something is needed. The Taft-Hartley Act, designed for national emergency strikes, doesn't apply to railroads. President Nixon let the West Coast dock strike run 100 days before he applied it because it is not easy to define a regional problem as a national emergency. And as soon as the Taft-Hartley cooling-off period expired, the dock strike was back in effect.

Negotiated settlements of labor disputes are obviously the best. Strikes remain a legitimate tool in the struggle for economic justice. But when the public interest is clearly imperiled by the special interests of shippers or unions or transport companies, a democracy risks anarchy if it fails to have an orderly alternative.

[From the Oregon Journal, Feb. 13, 1972]

MAIN JOB YET TO BE DONE

No one on the outside can say for certain whether the International Longshoremen's and Warehousemen's Union (ILWU) and the Pacific Maritime Association (PMA) would have agreed to end their dispute this week without the pressure of congressional action.

An emergency end-the-strike bill was approved one day after the contending parties had come to terms in San Francisco, so the new legislation will be used by President Nixon only if the ILWU membership fails to ratify the agreement. This is not expected.

The willingness of Congress to act after long months of delay may be good or bad, depending on what it signals for the future.

It is bad if the lawmakers view this step as a substitute for permanent legislation designed to resolve disputes without disastrous strikes in the transportation industry.

It is good if it reflects congressional determination to attack this whole troublesome issue head on.

Oregon's Sen. Bob Packwood has interpreted the narrow defeat in the Senate of his amendment which would have attached permanent legislation to President Nixon's anti-dock strike bill as a positive sign that Congress finally will "bite the bullet."

In Oregon and the entire West Coast, the end of the waterfront dispute is only the beginning of a long, tough fight to lure back old customers who have been driven elsewhere because they could not be served from here.

The questions uppermost in their minds are: Can we depend on future shipments? How can we know this will not happen again?

Ostensibly, this is a two-year contract. But the two-year period began last July 1. It will end 16 months from now.

Asian markets for Pacific Northwest wheat were built up over a long period of relative stability, thanks to a series of five-year-contracts and a seeming realization on both sides that waterfront peace was in everybody's interest.

The easiest and quickest way to restore

the confidence of overseas buyers is for the Congress to enact legislation which will provide procedures in the whole transportation industry by which labor disputes can be settled fairly and judiciously without strikes, after collective bargaining has failed. Such procedures should apply to regional disputes like the one we have just seen.

Proposals of this kind have been in the Congress for a long time. They have been blocked and derailed by men who are indebted to or overly fearful of organized labor.

But the country as a whole—and this includes many in organized labor—is in a mood for reform. Congress is often behind the country in its acceptance of change. It ought to be getting the message from the people on this issue now.

RADIATION EXPERIMENTS ON TERMINAL CANCER PATIENTS

Mr. GRAVEL. Mr. President, the propriety of the experimental exposure of terminal cancer patients in Cincinnati to high doses of whole-body radiation, in connection with a Department of Defense research grant, has been under investigation since October 1971.

On October 15, I placed in the RECORD, pages 36448–36451, a statement and several newspaper accounts.

On January 19, Mr. TAFT placed in the RECORD, pages 250–252, a report by the American College of Radiology regarding the experiments.

On January 26, Mr. KENNEDY placed in the RECORD, pages 1359–1361, a report by the Junior Faculty Association of the University of Cincinnati.

Today, I ask unanimous consent that my recent letter and second set of questions to the American College of Radiology about these experiments be placed in the RECORD; the first set of questions is incorporated in the January 19 RECORD item, cited above.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

FEBRUARY 4, 1972.

ROBERT W. MCCONNELL, M.D.,
President, American College of Radiology, Chicago, Ill.

DEAR DR. MCCONNELL: It is clear from your letter of January 3, that the American College of Radiology has taken a lot of trouble to respond to my request for advice about the radiation experiments of Dr. Eugene Saenger, and I appreciate your responsiveness.

In addition, I appreciate your willingness to discuss any points which still concern me.

My questions originally fell into five categories:

I. Animal Data and Basis For Trying This Therapy.

II. Follow-up Studies To Determine Effects.

III. Control Groups To Determine Helpfulness or Harmfulness.

IV. Private Patients.

V. Trickery, Purpose, Risk.

You seem to have answered question number four.

I will keep my questions today in the same categories as before. Considering all the conclusions which your team has reached, and considering the small number of patients involved (82), I hope and expect that the attached questions will not be difficult.

Meanwhile, I will list some of the tentative conclusions I reach from your January report, in order to find out if I understand or not. In case of a misinterpretation, I would welcome correction.

(1) The ACR report confirms that there is no control-group or systematic effort to assess comparative benefit or risk of Dr. Saenger's special cancer therapy.

(2) The ACR report confirms that the patients were not thoroughly informed about the extra discomfort, the military aspects, or the possibly lethal effects.

(3) The ACR report confirms that the patients were given hope that the treatment might prolong their lives, shrink their tumors, retard development of metastases, and/or relieve their pain.

(4) The ACR report fails so far to show that there was basis in prior animal or human experiments to justify offering this hope.

(5) The ACR report confirms that the mixed results can not be correlated with a specific treatment because many of Dr. Saenger's patients received several different kinds of treatment.

(6) The ACR report fails so far to deal with the possible harm suffered by some patients in the course of this experimentation.

Very truly yours,

MIKE GRAVEL.

QUESTIONS REGARDING DR. SAENGER'S RADIATION EXPERIMENTS AT THE UNIVERSITY OF CINCINNATI

(Note: The letter referred to is from Dr. McConnell to Senator Gravel, January 3, 1972, and appears in the Congressional Record of January 19, beginning on page S2500.)

I. ANIMAL DATA AND BASIS FOR TRYING THIS THERAPY

Your letter refers repeatedly (pages 3, 5, 6, 9) to the "basic animal work", "the voluminous literature" etc. which justifies human experimentation.

You state (page 3) that, "In the opinion of the Committee, the team at Cincinnati had abundant bases in the literature for undertaking this study".

Later (page 6) you state that, since 1942, there have been 86 papers published "on the subject". You apparently are alluding to the "bibliography" dated November 30, 1971 which presents 86 items.

A survey of those titles suggests that many concern:

a. leukemia.

b. bone-marrow transplant.

c. measurement of radiation effects other than cancer palliation and therapy.

Only a few of them seem to concern the treatment of "advanced, disseminated tumors" with whole-body irradiation, which is what Dr. Saenger decided to do, according to your letter (page 6).

a. Would you please indicate exactly which of the 86 references report on experiments elsewhere, on either humans or other animals, in which the treatment of malignant, disseminated tumors was the purpose of whole-and-partial-body irradiation with high energy sources? Which of these studies were complete prior to 1960, when Dr. Saenger began his own experimentation?

b. You refer (page 6) to current efforts elsewhere using whole-or-partial-body radiation to control "disseminated cancers of the breast, thyroid, and prostate". Where are these experiments going on, and who is conducting them? Is this external or internal radiation, and what is the dose-range? What is the application of partial-body radiation if the cancer is disseminated throughout the whole body?

c. Bibliography item #23 (1970) concerns the use of Phosphorus-32 for prostate cancer. Is this external or internal radition, and what is the mean whole-body radiation exposure in rads?

d. Bibliography item #32 (1950) concerns the use of Phosphorus-32 in the treatment of carcinoma of the breast with widespread metastases to bone. Was this external or internal radiation, and what is the mean whole-body exposure in rads?

e. Bibliography item #55 (1956) concerns the use of radioactive Phosphorus and Testosterone in the treatment of metastic lesions in bone from breast and prostate. What was the mean whole-body exposure in rads?

f. You state (page 11) that "some type of partial or whole-body radiation is used in more than 42 different U.S. medical centers". Since, according to your letter, a list is not available, where did the information come from: Do you mean by "used", used for treatment of "advanced, disseminated tumors"?

II. FOLLOW-UP STUDIES TO DETERMINE EFFECTS

a. You state (page 8) that, "In terms of survival, the Cincinnati group reported results showing an extension of days over untreated patients in each of the tumor categories".

What does the term "days" mean? 2 days? 180 days? Without some specification here, this important claim can be misunderstood. In which of Dr. Saenger's papers or reports does he present this important information?

What does "untreated" mean? Untreated with whole-or-partial-body irradiation, or completely untreated at all?

b. How many patients, if any, experienced an increase in pain and primary tumor size following Dr. Saenger's treatment? A decrease in activity and "well-being"?

c. You state (page 8) that about 29% of the patients felt a reduction of pain and tumor-size following Dr. Saenger's treatment. For how long did these patients feel better? A day? A year? In which of Dr. Saenger's reports can I find this important data on pain and tumor reduction?

d. You state (page 8) that about 29% of the patients experienced no improvement or change following Dr. Saenger's treatment. Is it the position of the American College of Radiology that the whole-body irradiation treatment helped as many (29%) as not (29%)? Or are there other factors besides this special treatment which may account for these results?

e. How many autopsies have been performed on the deceased patients?

III. CONTROL GROUPS TO DETERMINE HELPFULNESS OR HARMFULNESS

a. You state (page 10) that Dr. Saenger has no specific control groups or randomized samples, but that "The literature contains sufficient studies of similar patients and comparable sized samples treated by other methods to allow basic comparisons of tumor regression, post-treatment symptoms, and survival-times after palliation."

Dr. Saenger must have assembled and thoroughly studied this literature in order to make the comparison of survival times which you report (page 8) and to conclude that his treatment is promising.

I would like a list of the studies which Dr. Saenger is using for comparison and control. Would you make me a copy?

b. You state (page 8) that comparisons are "clouded" because "many" of Dr. Saenger's patients had had "one or more types of treatment" both before and after his special whole-or-partial-body irradiation experiment.

Prior to Dr. Saenger's treatment, how many of his 82 patients had themselves already had

1. localized, phophylactic irradiation of the primary tumor?

2. surgery on the tumor?

3. chemo-therapy?

How many of his 82 patients received any of those other treatments following Dr. Saenger's experiment?

c. You state (page 8) that the mixture of treatments "blurred" analysis of the effects of Dr. Saenger's single whole-body radiation therapy.

If the primary purpose of Dr. Saenger's work is to advance cancer therapy and not to procure human data for the Department of Defense, as the ACR contends (page 11),

which was doomed to give "cloudy" and "blurred" results? To what extent could more useful information about the therapeutic effects of single whole-body radiation exposure in the treatment of advanced disseminated tumors be obtained from laboratory animal experiments?

V. TRICKERY, PURPOSE, RISK

a. According to the AEC's 1968 booklet, *Your Body and Radiation,* (pages 45–50), "The single-dose, whole-body lethal dose for 50% of exposed mammals ranges from about 100 to 1000 rads . . . 500 rads is thought to be the average figure for humans."

A single-dose exposure between 50 and 400 rads is described as "still nasty." The booklet says, "A victim (of such a dose) may show signs of 'tired blood', and a somewhat lowered disease resistance, with consequent shortened life expectancy . . . Irradiation is known certainly to 'take years off your life' . . ."

What basis if any, exists for disputing these statements?

b. You quote (page 8) Dr. Saenger as stating that his whole-body irradiation treatment in the 150–300 rad range creates "no greater risk than many present forms of chemotherapy."

To what degree would "present forms of chemotherapy" constitute the same risk to a healthy person as would a single dose of 200–300 rads of whole-body radiation:

c. To what extent is it correct to say that chemotherapy has unequivocally helped dozens or hundreds or thousands of cancer patients?

d. You state (page 8) that out of 82 patients whose condition had been thought to be stable died within 60 days of Dr. Saenger's treatment. Their bone marrow function was found to be subnormal, and "thus relatable to radiation syndrome".

To what extent would such results indicate warning patients about possible lethal effects from Dr. Saenger's treatment?

e. You state (page 7) that all the patients were told the radiation treatment would be attempted "to prolong their lives". What basis is there for supposing that 150–300 rads might prolong life?

f. You refer (pages 5 and 6) to bone-marrow transplants beginning in 1964, then beginning in 1965, and then "becoming practical" in 1969. This leaves me confused.

Could you please provide a year-by-year list (11 entries) showing the number of patients that year who received bone-marrow transplants, and the number who did not?

Altogether, how many of the 82 patients received bone-marrow transplants?

There seems to be quite a variation in when the patients got the bone-marrow help—everything from immediately after radiation, to the same day, to 18–21 days later.

What used to determine the timing, and what determines it now? Can delay kill a patient?

g. You state (page 7) that, "It is worth noting that these symptoms (e.g. vomiting due to radiation) are certainly no greater than those experienced by patients treated either by surgery or by any of the systemic drugs now being used clinically on disseminated tumors."

We are not comparing discomfort. What is at issue is the voluntary and informed choice by patients to endure extra discomfort and risk in return for something.

I do not understand why the patients were not informed about the possible side-effects. Doctors commonly offer warnings to their patients about the side-effects of the birth-control pill, the IUD, antibiotics, pencillin, etc. even though the effects can be subjectively induced. Is it approved medical practice for doctors not to warn patients about unpleasant side-effects of treatment?

h. You state (page 7) that "In the last few years" patients were told that the experiments might have military as well as clinical significance. What was the reason for this change in policy?

i. You state (page 6) that 24 patients were rejected and received none of Dr. Saenger's whole-body irradiation treatment. What was the basis for rejection? Were they too sick to risk the extra ordeal?

j. You state (page 6) that "some of the patients had sham irradiation treatment." What was the therapeutic purpose of this? How many of the 82 patients had it?

k. You suggest (page 3) that referral just to Dr. Saenger's papers prepared for the Department of Defense might produce misleading conclusions about the real purpose of his work. You supplied a list of all his papers and presentations. Is it correct to infer from their titles that there is only one about the effects of his treatment on helping cancer victims (1967), and in that paper, he says he can't tell much?

l. You state (page 3) that "Department of Defense funds were used only to support the laboratory and psychological studies, but not the treatment or care of the patient." Later (page 6) you state that only 82 patients were treated. Elsewhere (*Washington Post,* October 8, 1971) it has been stated that the DOD has already spent $850,000 on this work, which comes to $10,000 per patient. What accounts for this cost per patient?

THE DAVIS-BACON ACT AND JOB CREATION

Mr. TOWER. Mr. President, on January 19, I introduced S. 3036, a bill to repeal the Davis-Bacon Act and the Contract Work Hours Standards Act.

My remarks upon introducing the bill made note of a variety of reasons why I have come to the conclusion that repeal of these laws is advantageous. One of these reasons is the belief that the Davis-Bacon Act has and continues to work against other Government objectives in the fight against poverty and unemployment.

In an article in the April 1971, issue of Labor Law Journal, Prof. Jerry E. Pohlman, assistant professor at the State University of New York at Buffalo, discusses the relationship between the Davis-Bacon Act and job creation by using public housing construction as a model. Professor Pohlman's basic conclusion is that the Davis-Bacon Act increases the cost of public housing by increasing the cost of individual job creation. As a result fewer jobs are created and our war against poverty suffers.

Because I have become a firm believer that increased labor costs have contributed greatly to our inflationary spiral I find this article extremely important. Furthermore, as the ranking minority member of the Housing Subcommittee of the Senate Banking, Housing, and Urban Affairs Committee I am very much concerned over the negative effect which the Davis-Bacon Act has had on public housing and the program's related objectives.

I ask unanimous consent to have Professor Pohlman's article printed in the RECORD. I urge Senators to give it their closest attention.

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

HARD-CORE UNEMPLOYMENT, PUBLIC HOUSING CONSTRUCTION AND THE DAVIS-BACON ACT

(By Jerry E. Pohlman)

"I am today [February 23, 1971] suspending the provisions of the Davis-Bacon Act which require contractors working on federal construction projects to pay certain prescribed wage rates to their workers." In his announcement, President Nixon went on to explain that the government will not be a party to inflationary measures. The author applauds this decision, particularly as he believes it will affect public housing construction (a perennial favorite when "creating" government employment). Jerry E. Pohlman is assistant professor, department of industrial relations, at the State University of New York at Buffalo.

Job creation, or the government as employer as last resort is increasingly being thought of as a vital tool in the fight against poverty. Numerous individuals and commissions, including the President's Commission on Technology, Automation, and Economic Progress, have advocated that the government provide employment as a last resort to persons unable to find jobs in the private sector.[1] Although the 1970 Manpower Act, which went far toward implementing this concept, was vetoed by the President it is very likely that a similar proposal will be enacted into law in the not-too-distant future. Also, if welfare is expanded to cover the entire poverty population—such as the Administration's Family Assistance Program which is now being considered—job creation will become even more important as an alternative to welfare.

Should the government undertake employment-creating programs, many of them would undoubtedly be in the area of public construction. As such, they would be subject to the terms of the Davis-Bacon Act of 1931. This act compels the government to pay "prevailing wage rates" on public works projects.[2] Many persons, including Arthur Burns, Chairman of the Federal Reserve Board, see the Davis-Bacon Act as effectively hindering the number of hard-core unemployed persons who could be absorbed on government projects due to the high wages which would have to be paid to them.[3] As a result, an increasingly vocal group of persons have called for repeal of this Act and the President recently suspended it for an indefinite period.[4] The purpose of this article is to analyze the effect of different wage rates on a given type of construction project—namely, public housing—in altering the man-hours of labor required. If it is true that lower wage rates imply a greater utilization of labor per unit of expenditure, and particularly that more unskilled labor will be utilized, then repeal of the Davis-Bacon Act may be beneficial.

If, on the other hand, the state of technology is such in the construction industry that man-hour requirements change little with respect to changing wage rates, there would be little need to attempt this institutional change. There is no doubt that such a measure as the repeal or suspension of the Davis-Bacon Act would be a politically difficult task to accomplish. Therefore, one should be quite sure of the benefits of such a course of action before advocating its undertaking.

THE SUSPENSION: RATIONALE

The analysis is limited to public housing since this type of project is usually among the forefront of suggested public works projects designed to provide government employment for the hard-core unemployed. Leon Keyserling has noted:

Footnotes at end of article.

"By far the most promising opportunities to expand employment, especially among the unskilled and semiskilled are in the type of economic activity where our unmet nationwide needs call for expansion of goods far in excess of the likely technological advances in such types of activity. . . . Housing and urban renewal is by far the most important of these areas quantitatively and as important as any qualitatively." [5]

In the following analysis we will discuss, in terms of data generated by the Bureau of Labor Statistics, the costs of creating jobs through public housing expenditures, and, further, the possibility of adopting more labor intensive techniques in an effort to create more jobs per unit of output. If it can be shown that more labor intensive techniques will be adopted given lower wage rates, then suspension of the Davis-Bacon Act as a means of promoting employment of the hard-core unemployed would seem sensible.

The Bureau of Labor Statistics has surveyed several different types of construction projects in an effort to determine how many man-hours are required per $1,000 of total expenditure. The results of these surveys provide the basic man-hour data used in this study. These data have then been updated by the Department of Commerce composite cost index for construction to reflect 1970 prices.[6] In public housing construction approximately 156 man-hours of employment are created for each $1,000 expended. This consists of 75 on-site hours (48 per cent) and 81 off-site hours (52 per cent).[7] These are national averages with differing man-hours being required for specific projects depending upon location and the type of the structure.

Considering one year's work to consist of 2,000 man-hours,[8] it can be seen that one full-time job will be created for each $12,800 of construction expenditure. This figure includes all of the costs associated with the projects and reflects payments to off-site as well as on-site labor plus all the materials used in the project. This means that although 2,000 man-hours of work are created for each $12,800 of construction expenditure, it is not 2,000 man-hours of unskilled labor or even on-site labor. For purposes of job creation for the hard-core unemployed, less than one job is being created since the government presumably would not have control over the off-site jobs and the skilled jobs would be less relevant than the unskilled ones.

OFF-SITE MAN-HOURS/ON-SITE COSTS

As noted, part of the above expenditure reflects man-hours created in off-site jobs. The question then arises as to what degree of control the government would have over the allocation of these off-site positions and, presumably, it would have little. This implies, for purposes of hiring the poor, that the relevant openings are restricted to the on-site man-hour requirements. Considering only the effects of on-site employment creation, the cost of creating one 2,000-hour job increases to $26,400, that is, for each $26,400 expended on public housing construction, one full-time on-site job is created. This figure, of course, includes many payments for factors other than labor. Materials account for 47.5 per cent of these total costs, on-site wages 35.5 per cent and "other" (manufacturing, transportation, etc.) 17 per cent.

For purposes of job creation the higher the percentage of total costs going to on-site labor the more economical the creation of these jobs will be. The significant question, then, is to what extent do the provisions of the Davis-Bacon Act prohibit more labor from being used by making utilization less economical and thereby lowering the percentage of total costs going to on-site wages. It will be shown that in areas where wages are lower the percentage of total costs allocated to on-site labor are higher. Of course, to make this latter percentage higher while wages are lower, more persons must be hired. Thus, the argument can be made that in areas where the Davis-Bacon Act *does* prohibit wage rates from being lowered, the costs of job creation are higher, thereby making employment-generating projects less attractive as a means of poverty alleviation.

Comparing the figure of 35.5 per cent of on-site labor costs above to other projects surveyed by the BLS (hospitals, schools, highways, federal office buildings and others) illustrates that the cost of creating an on-site job will be less with public housing than with these other projects. This reinforces the opinion of Keyserling that public housing construction is an attractive means of creating jobs. Surprisingly, this 35.5 per cent figure is also somewhat above the comparable figure for European construction where the average share of costs going to on-site labor is only 15–25 per cent.[9]

LONG-TERM EFFECTS

Given these percentages it can be seen that $12,550 of the $26,400 goes for materials while only $9,380 goes for labor. There are different ways to view this: on the one hand, it can be said that this is a relatively inefficient method of reducing poverty since a good portion of the payments go into things other than the hands of the poor. Alternatively, the outlays can be viewed as far more than promoting the immediate reduction of poverty. Society is producing urgently needed housing while at the same time the patterns being put to work are gaining valuable on-the-job training which will mitigate the need for future welfare payments. The government is receiving the immediate benefits of increased housing and decreased welfare expenditures while at the same time making an investment in human capital which will decrease future welfare needs as it increases future output.

It may well be that a large proportion of the newly employed persons to be drawn from the ranks of the poverty population will be able to accept only unskilled jobs. In this case, a crucial element becomes the ratio of unskilled to skilled openings created per unit of expenditure. The greater the percentage of unskilled jobs to total jobs the lower the cost per job will be. Obviously, with any given amount of expenditures to be allocated to employment-creation projects, it is desirable to create as many unskilled jobs as possible. A closely related question, then, is the extent to which the Prevailing Wage Law, or Davis-Bacon Act alters the ratio of skilled to unskilled in favor of more skilled people by keeping unskilled wages artificially high. There are then, two elements in determining the cost per job being created. One is the ratio of labor cost to total cost and the other is the ratio of unskilled man-hour requirements to skilled man-hour requirements.

Of the approximately 75 hours of on-site work created by the expenditure of $1,000 on public housing construction, only 26.2 hours or 34.9 per cent were semi-skilled or unskilled. The other 48.8 hours consisted of supervisors, professional and clerical workers, and skilled workers. If we desire to reach the hard-core unemployed who could take only an unskilled job, the expenditures required to create one year's employment (2,000 hours) would come to $77,200. That is, for each $77,200 expended by the government on public housing construction, 2,000 hours of unskilled employment will be generated. Of course, many other openings will be generated in the skilled lines as well as the purchase of many materials so it should not in any sense be thought that through this large outlay the only benefit the government is receiving is the creation of an unskilled job. Also, this figure would be a maximum since it is doubtful that all of the hard-core unemployed would be limited to unskilled jobs. In fact, the work history of the unemployed in general indicates that a relatively small proportion are unskilled.[10] Supposedly, however, public works projects would deal primarily with the unskilled or hard-core unemployed since most economists would agree that more powerful and general measures, such as monetary and fiscal policy, are more appropriate in terms of reducing overall unemployment rates.

LOCATION AND MATERIALS VARY COSTS

Three principal types of public housing projects considered are reinforced concrete, load-bearing masonry and wood. Reinforced concrete structures are found primarily in large metropolitan areas due in large part to the high cost of land here and the concomitant need to economize on this scarce resource. This type of structure, however, has serious limitations as a job-creating device. The technology required demands less unskilled labor than other types of housing, thereby increasing the cost of creating an unskilled job. This type of building is usually quite large, thus allowing the utilization of highly specialized equipment and also requiring expensive components (especially elevators) which reduces the percentage of expenditures going to labor.

Load-bearing masonry and wooden structures are found in both metropolitan and rural areas. As well as costing less per square foot of housing space, these projects also generate a larger amount of employment per unit of expenditure than the high rise concrete structures. However, part of the reason that higher expenditures are associated with concrete structures is due to their virtual absence in the South where all costs are lower. Since the figures derived by the Bureau of Labor Statistics are averages throughout the country and since high-rise concrete structures are not found to a great extent in the South, the average cost for this type of structure appears quite high. However, since all costs are higher in areas outside of the South, part of this differential with respect to concrete buildings is due to the fact that they are in high-cost areas and not to the difference in structural type.

Differences in location of the projects and type of structures give rise to differing estimates of the costs involved in creating jobs for the poverty population.[11] The most striking feature concerning location is the large difference in man-hour requirements between the South and other regions of the country. In large part, this seems to be due to the lower wage costs in the South—thereby reinforcing the above hypothesis with respect to the Davis-Bacon Act. Employers are able to utilize a more labor intensive factor mix in response to the lower wages. The effect of this on the cost of creating a job can readily be seen in Table 1, which depicts the amount of expenditures required to produce one full-time job. (This includes on-site as well as off-site employment.)

TABLE 1.—EXPENDITURES REQUIRED ON PUBLIC HOUSING CONSTRUCTION TO CREATE 1 FULL-TIME (2,000-HOUR), ON-SITE JOB [1]

	United States	South	Other regions
All projects	$26,400	$21,300	$30,500
Construction cost group:			
Under $1,000,000	21,600	18,900	29,600
$1,000,000 to $1,999,999	26,000	23,600	27,900
Over $2,000,000	30,500	24,900	32,000
Type of structure:			
Reinforced concrete	32,200	----------	32,200
Load-bearing masonry	21,900	21,100	24,800
Wood	24,200	21,700	32,500

[1] All figures rounded to the nearest $100.

Footnotes at end of article.

The above figures indicates that the adoption of labor intensive techniques is indeed a technological feasibility with respect to public housing construction. Thus, when projects are considered for various areas of the country the cost figures for that region should not simply be taken as given. A conscious policy could be adopted in an effort to change the factor proportions in favor of increased use of labor. However, this would only be possible to the extent that it is institutionally possible to pay lower than "prevailing" wage rates in high-wage areas. And this brings such a policy into direct conflict with the provisions of the Davis-Bacon Act. If this act cannot be circumvented the possibility of adopting labor intensive techniques as a means for generating employment in high labor cost areas is small indeed.

The figures presented in Table 1 also suggest that smaller projects are superior to the large ones with respect to job-creating potential. This, then, provides another means whereby government policy could reduce the costs of job creation—mainly, by concentrating on smaller projects. However, even this is somewhat misleading. A large proportion of the smaller projects in the BLS survey were found in the South, where, as mentioned above, all costs are lower. Also, it is significant that in the South more nonunion labor is used than in the North. Therefore, a part of the lower costs associated with smaller projects is again due to the fact that wage rates on these projects are lower. Contractors in this situation have an incentive to use more labor intensive techniques, thereby lowering the costs per job of creating employment.

The figures developed thus far refer to total labor requirements. However, as noted earlier, of major importance for the hard-core unemployed is the number of *unskilled* jobs available. The openings created at the lower end of the occupational ladder thus become very relevant. The on-site man-hour requirements by region and skill level are summarized in Table 2.

TABLE 2.—ONSITE MAN-HOUR REQUIREMENTS PER $1,000 OF PUBLIC HOUSING CONSTRUCTION[1]

Occupational group	United States		Northeast		North Central		South		West	
	Man-hour	Percent	Man-hour	Percent	Man-hour	Percent	Man-hour	Percent	Man-hour	Percent
All occupations	75.0	100.0	64.0	100.0	70.0	100.0	94.0	100.0	65.0	100.0
Supervisors	1.9	2.5	1.3	2.0	2.4	3.4	2.4	2.6	1.4	2.1
Professional, technical, and clerical	1.1	1.5	1.2	1.8	1.5	2.1	.8	.8	1.3	2.0
Skilled workers	45.8	61.1	43.8	68.5	46.6	66.5	48.6	51.7	45.7	70.3
Unskilled workers	26.2	34.9	17.9	27.9	19.6	28.0	42.2	44.9	16.5	25.4

[1] The skilled workers category includes the summation of 20 various trades. Unskilled workers include helpers and tenders, truckdrivers, custodial workers, laborers, and other miscellaneous. For a complete breakdown, see BLS Study No. 1402, p. 15. These data have been altered to reflect 1970 prices although the percentage figures are presumed to have remained constant.

The most significant data revealed in Table 2 are the very large discrepancies among man-hour requirements for various regions of the country, especially with respect to unskilled workers. This again supports the contention that there is considerable latitude for factor substitution within public housing construction. If, as many persons believe, the technology for a given construction project is relatively fixed then the ratio of unskilled to skilled labor would be relatively constant regardless of the differential in the cost of the two. This, however, does not appear to be the case—indeed, the opposite seems to be quite true. There is a high degree of substitution available and this factor substitution does in fact take place with respect to different factor costs. Wage rates are lower in the South than in the North therefore providing for a factor mix of proportionally more labor in the former than in the latter area. However, the differential between the wage rates of skilled and unskilled labor are also greater in the South than in the North and, as a result, a higher proportion of unskilled to total labor requirements is found in the South. Approximately 45 per cent of the work force in the South consists of unskilled labor compared with only 25 per cent in the West, thereby making the technological arrangements in use in the South quite attractive for a public housing program aimed at job creation. These considerations are clearly reflected in the cost estimates presented in Table 3. Again it should be noted that these figures represent the total amount of expenditures required to create one on-site job and one on-site unskilled job, respectively. That is, the cost of an unskilled job includes several hours of skilled man-hour requirements as well as the materials required for the project.

TABLE 3.—EXPENDITURES REQUIRED ON PUBLIC HOUSING CONSTRUCTION TO CREATE ONE FULL-TIME ON-SITE JOB

Occupational group	United States	Northeast	North Central	South	West
All jobs	$26,400	$31,400	$28,500	$21,300	$30,800
Unskilled jobs	75,650	112,600	101,300	47,300	120,300

From the above it can be seen that it would cost two and one-half times as much to create one unskilled job in the West as in the South and more than twice as much in the Northeast. Alternatively, we could say that it would cost two and one-half times as much to employ the same number of unskilled persons by using the *techniques of production* of the West rather than those of the South.

CONCLUSIONS AND IMPLICATIONS

The above analysis lends support to the hypothesis of Dr. Burns and others that the provisions of the Davis-Bacon Act do prohibit the adoption of more job-creating programs by the government. Once a project has been decided upon—and all forms of public works projects should certainly have merit on their own as well as their job-creating potential—certain crucial variables become very important with respect to the cost of creating a job. One is the percentage of total costs allocated to labor. As seen above, the high-wage-rate areas have a lower percentage of total cost allocated to labor and therefore a higher cost per job. The second crucial variable is the ratio of unskilled to skilled openings. For purposes of alleviating hard-core unemployment, the unskilled job openings may be more relevant than the total openings. It can also be seen from the data that where the differential between skilled and unskilled rates is wider, the percentage of total labor costs going to unskilled labor is correspondingly higher implying that the number of unskilled man-hours created is significantly greater. By not allowing these technological possibilities to be adopted, the Davis-Bacon Act reduces the potential of job-creation programs in the war against poverty.

It should not be supposed that the above analysis is anti-labor in the sense of attempting to institute a policy of promoting low-wage labor to compete with union labor. On the contrary, most proponents of job-creation programs see these projects as being *in addition* to current construction projects and to consist of projects which would not otherwise be undertaken. The effect, then, would be to give jobs to people who presently do not have jobs at the union wage rates or any other wage rate. Also, the increased total amount of money being expended upon construction could only put an upward pressure upon union wage levels. Given these two important considerations, trade union opposition to suspension of the Davis-Bacon Act would, hopefully, be minimized.

Finally, it should be noted that job creation will become a more important aspect of the total war against poverty in the future. This has to do with the relationship between the poverty population and the welfare population. These two groups are sometimes assumed, erroneously, to consist of the same persons when, in fact, they have quite different constituencies. The poverty population is approximately four times the size of the welfare population, and, while it is true that most persons on welfare are unable to work for one reason or another (they are too old, too young or disabled), the same is not true of the poverty population.

The poverty population is overwhelmingly attached to the labor force with a surprisingly high number (over 75 per cent) having some contact with the labor force throughout the year. That is, they were either employed full time and earning less than poverty wages; employed part time; or unemployed and therefore available for work.[1][2] These figures indicate that the poverty problem, as opposed to the "welfare problem," is in large part a labor market phenomenon and can be effectively attacked through labor market mechanisms of which job-creation programs are a very important element.

Also, should a minimum-income-guarantee program be adopted by the Congress, one effect will be to increase the size of the welfare population to be coexistent with the poverty population. Should this occur, labor market mechanisms will become even more important as a means of minimizing the total cost of public assistance. In this case, it will be extremely important for the government to be able to create as many jobs as possible per unit of public expenditure.

There are, of course, a multiplicity of factors to be considered when examining the feasibility of government job-creation efforts through public works projects such as public housing construction. One of the most important, would seem to be the cost per job created. The above figures indicate that contrary to a widespread belief, there is a wide range of cost depending upon several variables, not the least of which is the labor intensity of the production technique adopted. Furthermore, this labor intensity is highly correlated to the wage rates in given areas, thereby making the provisions of the Davis-Bacon Act extremely important as a factor in determining the total costs of poverty reduction.

FOOTNOTES

[1] *Technology and the American Economy,* Report of the National Commission on Technology, Automation, and Economic Progress, Vol. 1, 1966, p. 37.

[2] For a concise discussion of the Davis-Bacon Act and other laws affecting government employment, see Donald R. Herzog,

"Labor Laws Applicable to Federal Government Contracts," LABOR LAW JOURNAL. Vol. 19, No. 1, January 1968, p. 12. For a more detailed analysis of the Prevailing Wage Law, see D. N. Gujarati, "The Economics of the Davis-Bacon Act," *The Journal of Business*, Vol. 40, No. 3, July 1967, p. 303.

[3] See, for example, Dr. Burns' recent Los Angeles speech of November, 1970, in which he called for repeal of the Davis-Bacon Act as a means of generating employment.

[4] This action, taken by the President on February 23, 1971, was designed to reduce inflationary pressures in the construction industry. However, the results of this policy will also be felt in the employment aspect of construction, the subject of this article.

[5] *Progress or Poverty*, Conference on Economic Progress, 1964, p. 138.

[6] Since there is no way to revise man-hour requirements except to adjust for price changes within the industry, the implication is that the technology has remained constant. Although this may not be precisely true, the results require only that any alterations in technology have been uniform among geographical areas, a not unreasonable assumption.

[7] Bureau of Labor Statistics, *Labor and Material Requirements for Public Housing Construction*, Bulletin No. 1402, May 1964, p. 4. Prices and man-hour requirements have been adjusted by the 1970 Commerce Department index for construction costs.

[8] The average work year in construction is approximately 1,790 hours but it is presumed that if the government were to institute a public works project it could adopt a 2,000-hour year. If not, the basic analysis would remain unaltered with the cost per job going down slightly.

[9] This is probably somewhat understated, however, since 20–25 per cent of these contract costs go to subcontractors for which there is no breakdown into labor requirements. See E. Jay Howenstine, *Compensatory Employment Programmes*, Paris. Organization for Economic Co-operation and Development, 1968, pp. 111–114.

[10] Robert L. Stein, "Special Labor Force Report: Work History, Attitudes, and Income for the Unemployed," *Monthly Labor Review*, Washington, D.C., December 1963, p. 1408.

[11] For a breakdown of man-hours per $1,000 of outlay by region, structural type, and size, see BLS Bulletin No. 1402, cited at footnote 7, at pp. 9, 12.

[12] See United States Bureau of the Census, *Current Population Reports*, Series p-60, No 54, May 31, 1968, pp. 29–31.

HONOR TO JONATHAN L. GOLDSTEIN

Mr. CASE. Mr. President, our New Jersey U.S. attorney's office has been honored by the selection of Jonathan L. Goldstein, chief assistant U.S. attorney, as one of 10 outstanding Federal employees in the Nation.

Mr. Goldstein has earned a well-deserved reputation for his legal competence, his dedication and his untiring work. Most recently he was in charge of a successful suit to enjoin permanently municipal dumping of accumulated sludge in nearby waters of the Atlantic. The suit is the first application of the Federal Refuse Act of 1899 to municipalities.

I ask unanimous consent to have printed in the RECORD an article from the Star-Ledger of Newark, N.J., which outlines Mr. Goldstein's background and accomplishments.

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

CHIEF STERN AIDE NAMED A TOP FEDERAL WORKER

Jonathan L. Goldstein, chief assistant of the U.S. Attorney's office for New Jersey, has been selected as one of the 10 outstanding federal employes in the nation.

U.S. Attorney Herbert J. Stern announced that Goldstein was selected as one of the 10 persons in the U.S. Government to receive the Arthur S. Fleming Award, presented in recognition of outstanding service by a federal employee.

Goldstein, 30, an East Orange resident, has served as chief assistant U.S. attorney for the past year. He participated in the U.S. grand jury investigations that led to the indictment of such persons as former New Jersey Assembly Speaker Peter Moraites, former Secretary of State Robert Burkhardt and former State Sen. Willard Knowlton.

Goldstein also worked on the preparation and trial of the government's case against former Jersey City Mayor Thomas Whelan and seven other Hudson County figures. All eight defendants in that case were later convicted on federal extortion-conspiracy charges.

Goldstein is an honor graduate of the University of Pennsylvania and the New York University Law School. He was admitted to the New York State Bar in 1965 and became a member of the New Jersey Bar shortly afterwards.

He had previously served as special attorney for the U.S. Justice Department's Organized Crime Strike Force. He was named to his present post last February, shortly after Stern was sworn in as U.S. Attorney.

MULTINATIONAL CORPORATIONS

Mr. HARTKE. Mr. President, the U.S. Chamber of Commerce has recently released a summary of a study that was supposed to deal with the impact of multinational firms on domestic employment. In a field where there is much need for more detailed data, I would ordinarily welcome any contribution. But the study in question was so arbitrarily drawn and so narrowly reported that it misleads much more than it informs.

Because the survey purported to deal with issues raised by the Hartke-Burke Foreign Trade and Investment Act, I have felt compelled to advise the Chamber of my sentiments. The questions raised here are so vital, that I wanted to share my reservations with Congress. I ask unanimous consent that my letter to the Chamber be printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, D.C., February 22, 1972.

Mr. DONALD J. MUSCH,
Staff Associate, International Group, Chamber of Commerce of the United States, Washington, D.C.

DEAR MR. MUSCH: Last week the U.S. Chamber of Commerce released a grossly unscientific study that was supposed to deal with the impact of the multinational firm on domestic employment. Because the study purported to deal with the Hartke-Burke Foreign Trade and Investment Act, I feel that I must point out the many failures and distortions encompased by your survey.

Choosing firms from FORTUNE'S top 1,000 may be a legitimate approach but there was no indication as to why only 600 of these were approached. Less than half of this sample responded and barely half of these were considered by you to be multinationals.

I was appalled at the broad definition you gave to multinational firms. Your term would embrace a largely domestic firm with one plant in Mexico as well as the firm with most of its assets overseas.

Although the study did cover the very important 1960–1970 period, it ignored one of the most striking features of that era: mergers. In your consideration of the epoch in which the conglomerate firm surged to national prominence, you made no attempt to correct employment figures for acquisitions. It is quite conceivable that a major conglomerate could show spectacular employment growth and actually have lost employment in each of its units to foreign competition. Your figures for exports suffer from the same failure: no attempt to correct for acquisitions.

Rather than identify firms by name, you chose to use a standard industrial classification number. This makes it impossible for an outside researcher to check these figures with an independent source. There should be no reason to keep such basic data on employment and exports as industrial secrets, unless, of course, the figures would not bear up under closer scrutiny.

What I found most disappointing about your survey was the failure to ask any of the really relevant questions. Judging from your published summary, none of the firms was asked how many plants they had closed because of competition from foreign imports. None of the firms was asked how many plants they had located overseas to supply the American market. There were no inquiries about loss of employment in domestic plants because of licensing foreign firms to use American technology.

While the loss of jobs, industries and new technology continues apace, your survey attempts to sweep these phenomena out of sight. This attempt at misdirection in supposedly scientific garb has only renewed my conviction that the Hartke-Burke bill identifies very real economic problems and correctly singles out a number of necessary steps.

I trust your future studies will follow a more objective and fruitful path.

Sincerely,

VANCE HARTKE,
U.S. Senator.

EULOGY OF MRS. NORA MORGAN, WATERTOWN, CONN.

Mr. TAFT. Mr. President, recently the distinguished Representative from Connecticut, Hon. JOHN S. MONAGAN, introduced in the CONGRESSIONAL RECORD a eulogy to Mrs. Nora Morgan of Watertown, Conn. Mrs. Morgan was a longtime personal friend of mine and of my family and the Congressman's remarks are so appropriate and well chosen, that I feel they should be included in the CONGRESSIONAL RECORD. I ask unanimous consent that the statement, eulogy, and other material hereto attached be so included.

In doing so I offer my deep sympathy for her husband, George Morgan, who used to coach me in glee club efforts at Taft School. Both he and his lovely wife have over many years contributed vastly to the pleasure and enjoyment of all who have known them.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

NORA FAUCHALD MORGAN

Mr. Speaker, on December 10, 1971, Nora Fauchald Morgan died in New York City.

For some 40 years a resident of Watertown, Connecticut, she was a unique and dynamic person who contributed immeasureably to the artistic growth of many individuals and significantly aided the cultural development of the Waterbury area.

Her career was much broader than that however, and the New York Times on December 11, 1971, carried a summary of her career which I append to my statement.

It is as an outstanding American and a vigorous defender of our Nation and its traditions as well as one who played a foremost role in improving the quality of American cultural life that I salute Nora Fauchald Morgan.

She was a long time friend of mine and the wife of one of Taft School's greatest teachers, George H. Morgan. I am confident that her influence will persist far beyond the lifetime of those of us who knew her.

A memorial service for Nora Morgan was held on December 18, 1971, in Watertown and I also append to these remarks the eulogies delivered by Representative John S. Monagan (D-Conn.) and William T. Taylor, as well as a remarkably fine appreciation by George Weigl which appeared in his column, "Musical Musings," in the January 9, 1972, issue of the Waterbury, Connecticut, Republican.

EULOGY DELIVERED BY REPRESENTATIVE JOHN S. MONAGAN AT MEMORIAL SERVICE FOR MRS. NORA FAUCHALD MORGAN, DECEMBER 18, 1971, WATERTOWN, CONN.

Nora always hated the lugubrious and especially in a group of her friends gathered in her memory, she would be horrified that there should be any suggestion of the doleful.

For this reason, I speak today in the spirit of affirmation and faith that characterized Nora's life and with an expression of gratitude for the good fortune which joined our lives with hers.

To summarize Nora is impossible as it is impossible to describe quicksilver or to define charisma. But as I ponder the problem, I thought of the words that Floria Tosca, the Roman diva, sings in the Palazzo Farnese in the second act of Puccini's opera—and it seemed to me that they might well have been spoken of Nora.

"Vissi 'd arte, vissi d'amore.

Non feci mai male ad anima viva."

"I have lived for art. I have lived for love. I have done harm to no living creature."

Nora lived for her art. She was dedicated, demanding and single-minded in pursuit of perfection for herself and her pupils. In technique she strove for excellence and she drove others to equal her high standards. Above all, her art was suffused with her intelligence, her warmth and her sympathy. Between Nora and her audience there was never any communications gap.

Through her artistry she brought pleasure to those who heard her and worked with her and with her magic gift she raised them above the humdrum round of getting and spending and gave them a memorable sense of romance and the conviction that there were values and satisfactions beyond those of the shop or the market place.

Like Tosca, Nora also lived to spread her limitless fund of love. Love for her husband, Red (with whom she formed an unforgettable combination). Love for her daughters and their families and love for those of us who were blessed with the gift of her friendship.

How prodigal she was with her great gifts and how indebted we are for the hours we were privileged to spend with her. Not only the great audiences that heard her in opera or concert, nor the more select groups who attended her recitals. But the small, intimate gatherings who shared those gay evenings in the privacy of her home when George played the piano and she sang the songs that we remember so well.

And over all there was ever her warm and compelling presence.

Who other than Nora could with effortless ease have arranged to have Harry Heminway passing drinks, Horace Taft singing "I Polished Up The Knocker On The Big Front Door" and the young Mayor of Waterbury fumbling his way over the piano keys in a Louis Armstrong ballad all in a single evening?

And after the amateurs had finished, on an evening such as I describe, she would sing "Sea Shell" and "To A Violet" and her tales of Pocahontas and Cleopatra, Mona Lisa and George Sand, the poetess whose cargo always included a lover and cigars.

As I sift my memories, it is not the Grieg songs that are foremost in my remembrance. Nor the Mozart "Alleluia." Nor the Handel.

I think first and always of Nora's voice, pure and true, soaring above the accompanying chorus in the words of that great old spiritual "There is a Balm in Gilead."

"There is a Balm in Gilead that makes the wounded whole
There is a Balm in Gilead that heals the sin-sick soul."

Singing with her confidence and strength of conviction, Nora cast aside doubt and faintness of heart and made us share in her inspiration and her belief.

Yes, through Nora we knew truly that there was a balm in Gilead to make the wounded whole. This was her message. This is her legacy to us and we are grateful for it.

She is with us today and she will always be with us.

NORA FAUCHALD MORGAN, SATURDAY, DECEMBER 18, 1971

A eulogy is defined as "a commendatory formal statement or set oration." I devoutly hope that the informality of my remarks in the next few minutes will not be considered inappropriate to the occasion. As in the case of most of those here today to honor her, Nora Fauchald Morgan was my long-time, revered and honored friend.

More than fifty years ago I was a collegemate of another dear friend who had the great good fortune to become Nora's husband. I happened to be in his dormitory room on an occasion when I saw on his desk a volume, which would now be called a paperback, entitled "Learn to Speak Norwegian." Surprised at this newly-discovered intellectual interest, my inquiry elicited the answer that he had always wanted to speak Norwegian; that he loved the music of Grieg and other Norwegian composers, etc., etc. It took little further questioning to learn that he had recently met Nora and had been possessed—whether *he* knew or not. Shortly thereafter I met Nora and was similarly charmed, although I never became expert in the Norwegian language.

In trying to put my emotion-packed thoughts in form for presentation on this occasion, I found it impossible to recite, in order of degree, the great and dynamic virtues which Nora possessed and exemplified for us, her friends.

Her love of beauty for beauty's sake was outstanding and contagious. Who could have heard her sing in all metiers—operatic, concert and lieder—without the thrill of beauty. One must not forget the Norwegian folk songs and her translations that created in one the love, respect, humor and warmth of the people who were her ancestors. Few artists have had the remarkable versatility which Nora possessed and few could transport their listeners into the very mood which she was experiencing. I would be remiss at this point were I to omit the part which her accompanist played in putting the appropriate frame on each of her musical pictures. The artistry of that partnership will always be remembered with complete satisfaction.

But Nora not only created beauty, she evoked it from others. What sincere devotion she exhibited in her relationships with pupils. It is my conviction that Nora never had a *personal* triumph that gave her greater satisfaction than that which she experienced in hearing the progress made by a pupil who had profited from her rare talent to communicate in her teaching methods.

Generosity was another characteristic with which Nora was abundantly endowed. I am referring not only to the giving of substance but as well to generosity of the spirit. She was a staunch and almost a dangerous defender of those she loved but she was not backward in protecting, against unfair criticism, even those she did not particularly love.

Possibly the most predominant quality of dear Nora in my opinion and one for which I revere her was her sense of loyalty. In this I include fidelity to country, to family and friends, and to ideas in which she believed. Hers was not a quiescent faith but a fierce allegiance to those persons and ideas in which she believed. One felt a sense of protection in her love.

I should not stop without comment upon the unique family unit which Nora's strengths and love helped to create and sustain. Each member, to the third generation, has his own rights, privileges, powers and immunities but they are not expected to impinge upon the unity of the family. A clear proof of this oneness is in their singing. To hear them, even to the smallest member, participate in rounds and other choral renditions is to prove my point. The voluntary nature of this participation emphasizes the fact.

And so, despite the inadequacy of my observations, I must conclude. It has been a privilege to share with you my sense of joy and thankfulness to have been a friend of Nora's. She was a great and good woman and will continue to live in all of us who loved her.

NORA FAUCHALD MORGAN

(By George Weigl)

Early in December Nora Fauchald Morgan passed on. When she bade adieu to this life there ended an era: an era of singers that included the greatest lieder singers of all time. Nora Fauchald, her professional name, was the youngest of that era which included such great artists as Merle Alcock, Alma Gluck, Lotta Lehmen and Louise Homer.

Nora Fauchald concertised for years the world over and then joined the staff as a voice teacher at the Damrosch Institute, forerunner of the Juilliard School of Music. She was one of its youngest teachers and probably the youngest ever to be engaged by Frank Damrosch who was the director of the Institute at the time.

Nora Fauchald was next selected by John Phillip Sousa to be the leading soloist with his famous band, a position she retained for five years or more and everywhere she was acclaimed by critics who heard her. During this time a brilliant young pianist, George Morgan, met and became enamoured of Nora and not long after they were married.

With marriage the rigors of concertising, those numerous concerts daily and that lonesome feeling, that comes with being in a different city every day and night, induced the young singer to forego the thrill of concertising. Thereafter she gave fewer recitals and came to Watertown to live. George Morgan had become music director at Taft School. Mrs. Morgan became a teacher at Saint Margaret's School and taught privately until a year ago. Meanwhile the Morgans became the parents of three beautiful, charming daughters.

Fortunately, the art of Nora Fauchald Mor-

gan lives on. It lives on via the art and technique she instilled into her pupils and by the good fortune of having had the courage to record an actual performance of a recital she presented in Town Hall, New York, some years ago. That recital, recorded exactly as presented to the public, has given posterity an almost perfect record of what can be done with the human voice when it is intelligently used. In listening to it one hears a most beautiful voice, perfect phrasing, and superb diction all homogenized into as perfect a song recital as is humanly possible.

Of course, in a song recital there is always a pianist who is sometimes called an accompanist and sometimes the pianist is but an accompanist. In the Fauchald recorded recital there is a pianist and not a mere accompanist. It is piano playing in the grand style by George Morgan and can be called nothing less than a collaboration; a blending of two souls musically inclined who are in complete accord with each other and the music at hand.

Nora Fauchald was not only a fine musician, she was an inspirational one. She was a violinist, a pianist and a singer. She could offer criticism of a musical nature to anyone. Play a Beethoven piano and violin sonata for her and she would analyze the performance. The violinist played too loud here, the pianists too loud there or vice versa. Then, after the technical difficulties were ironed out, came her suggestions on phrasing a passage. The violinist didn't "breathe" properly and joined phrases, or the pianist "breathed" in the wrong place, or even at times played the passage with altogether wrong phrasing. And though both pianist and violinist were often reluctant to admit their shortcomings, the critic, Nora, was always right. She had a God-given talent for understanding a composer's intention. She was one of those rare creatures, an inspirational musician. A musical conversation of minutest length with her always left one a better musician for having had that conversation.

On the 18th of December a large number of relatives and friends gathered at Christ Church in Watertown to pay tribute to Nora Fauchald Morgan at a profoundly beautiful memorial service in honor of her days just ended. William Taylor, a longtime friend of the Morgans, brought back many nostalgic memories of Nora: Of how his classmate, George Morgan, became enamoured of the young singer, Nora Fauchald. Mr. Taylor spoke with great feeling and told of the Morgan daughters and their children, those grandchildren of whom Nora was so proud. Then John S. Monagan, who in earlier days was Waterbury's mayor and is now one of the country's most brilliant Congressmen, delivered a profoundly beautiful eulogy.

Mr. Monagan, speaking extemporaneously, also brought to mind memorable times of bygone days with the Morgans. He said, "It is difficult to tell all that can be said of Nora Morgan, speaking as I am, but Providentially something has just come to mind." He then recited a few lines in Italian from the Puccini opera "La Boheme," and translated them. Said he, "Those lines say, 'I have lived for art, I have lived for love, and I have done no harm to anyone.' Those words best describe Nora Morgan." What a glorious tribute!

As time rushes on some of us oldtimers begin to take inventory of the credits and debts we have accumulated along the way. We realize that somewhere, sometime along the line old Father Time will say, "Here's where you get off, Feller," as he touches us with his scythe. And then we will think about getting up to those Pearly Gates to seek admittance. That's when it would be nice to be able to present but one credit that says, "I have lived for art. I have lived for love, and I have done no harm to anyone."

Those of us who knew Nora Morgan know those credits head her list.

NORA FAUCHALD, SOPRANO, IS DEAD—SOLOIST MANY TIMES IN TOWN HALL TAUGHT AT JUILLIARD

Nora Fauchald, a soprano who in her later years had been a teacher of voice at St. Margaret's School in Waterbury, Conn., died Friday evening in the Sloan-Kettering Institute for Cancer Research. She was 73 years old and lived at 47 Woodbury Road, Watertown, Conn.

Miss Fauchald was the wife of George Morgan, for more than 40 years director of music at the Taft School. She was a soloist with the Sousa Band for five years, making several transcontinental tours, and also had appeared many times in Town Hall and Carnegie Hall as a soloist.

A graduate of the Institute of Musical Art, now the Juilliard School of Music, Miss Fauchald won a scholarship given by the Juilliard Foundation for operatic training in Europe. This in turn led to an appointment to the Juilliard faculty that was to last for 12 years.

Reviewing an appearance at Town Hall in 1930, a critic for The New York Times remarked that Miss Fauchald had "a delicately colored and appealing tone of fresh and youthful timbre, produced without effort, free from tremolo, and even through its range."

Of her appearance at Town Hall in 1941, after a 10-year absence, with Mr. Morgan at the piano, a reviewer commented:

"They seemed like a team, for his playing was clear and sensitive, and, since the program was made up largely of lieder by Schubert, Wolf and Grieg, the accompaniments formed an important part of all the works performed."

The reviewer said of her voice that "it is often beautiful and she uses it with imagination and taste."

In addition to her husband, Miss Fauchald leaves three children, Mrs. Frederick C. Richardson of Lincoln, Mass.; Mrs. Donald M. Thomson Jr. of Ewa Beach, Oahu, Hawaii, and Karen of Cambridge, Mass.; two sisters and two brothers.

TRIBUTE TO AMBASSADOR THOMPSON

Mr. HUMPHREY. Mr. President, it is sad news indeed to hear of the death of Llewellyn Thompson. "Tommy" Thompson was one of the United States most expert ambassadors and authorities on the Soviet Union. He served selflessly in moments of crisis like Cuba and great stress like the enduring tension in Soviet-American relations. He was every bit the statesman, committed to the reduction of conflict and the promotion of understanding.

It is ironical that all his efforts received less attention than the results of his work which are so widely acclaimed today. "Tommy" Thompson's career spanned the cold war, but he applied his hopes and talents to moving us out of this era of constant strain and misunderstanding. The chances today may be better than ever that an end to the cold war is in sight and that a new structure for the conduct of international relations will emerge. Ambassador Thompson played an instrumental role in this evolution, and his presence at this important diplomatic juncture will certainly be missed.

Mr. President, I ask unanimous consent that the New York Times article by Chip Bolen, taken from Ambassador Bolen's eulogy at the funeral of Llewellyn Thompson, be printed in the RECORD.

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

[From the New York Times, Feb. 11, 1972]

A MODEL FOR DIPLOMATS

(By Charles E. Bohlen)

WASHINGTON, February 9.—The eighteenth-century English writer, Sir Richard Steele, once wrote in The Spectator, "The noblest motive is the public good." This seems to me to epitomize Llewellyn Thompson's attitude toward his life and work. He had a full, successful and, I think, satisfying life.

Entering the Foreign Service in 1928 as a vice consul, he rose by his own remarkable abilities and character to the very top of his profession, career Ambassador of the United States. He served in many posts—Ceylon, Geneva, Rome; he was high commissioner, then Ambassador to Austria; he was twice Ambassador to the U.S.S.R., the only American to have that distinction. His career stands and will continue to stand as an inspiration and a model for all young diplomats.

It provides convincing refutation to a thesis which has become fashionable today, namely that mass communications and rapid travel have rendered diplomacy in the old-fashioned sense obsolete. It is of course the spectacular agreement and the highly publicized trip that make the big news today. But it is as true now as it ever was that the quiet continuous contacts and the confidential discussions which are the essence of diplomacy prepare the way for the public agreements.

It was here that Ambassador Thompson excelled.

His keen analytical intelligence, his "feel" for the other side's position, together with his tact and patience made him one of our most effective diplomats and one of the ablest negotiators that the United States has ever had. He had the quality, so important to his profession, of being able to be firm when necessary without ever antagonizing those on the other side of the table.

The successful outcome of the London negotiations on the Trieste question in 1954 was largely his achievement; it was his skill that guided the Austrian peace to a successful conclusion in 1955. He was instrumental in getting discussions on the nonproliferation treaty and test ban started. Of the many other accomplishments one might cite, his role in the Cuban missile crisis perhaps deserves special mention. It has been described as his "finest hour."

The tribute which the late Robert F. Kennedy paid him in his diary of the crisis has been quoted in many of Tommy's obituaries but it is well worth repeating here. Senator Kennedy wrote: President Kennedy also "wished to hear from Tommy Thompson, former (and now again) Ambassador to the Soviet Union, whose advice on the Russians and predictions as to what they would do was uncannily accurate and whose advice and recommendations were surpassed by none."

Ambassador Thompson was firmly convinced that despite all the differences between the United States and the Soviet Union—differences of which he was well aware—it was possible to avoid conflict and unnecessary crises. This conviction was often put to the test during the seven years he served as Ambassador in Moscow.

Moscow is a difficult and frustrating post at all times, but it was particularly so during his incumbency. Crisis succeeded crisis, but Ambassador Thompson handled them all with cool competence.

A harsh test of a man's character in the Foreign Service is the attitude of those who worked for him. I have yet to meet anyone who served under Tommy Thompson who did not have for both him and his wife the very strongest feelings of respect and affection.

My own friendship with him extended

with increasing intimacy over thirty years. I will remember him for his many fine qualities of mind and spirit, for many hours of serious discussion, spiced with his inimitable stories, for many happy encounters on the golf course and at the poker table, where he excelled, as I learned to my cost. Tommy loved competition and enjoyed the clash of wits involved.

But his most outstanding characteristic to my mind was his decency. How deep this decency went I have cause to know from my own personal experience.

In the late winter of 1957 I received word from the Secretary of State that he was planning to replace me as Ambassador in Moscow sooner than I had expected and that Tommy was to be my successor. Tommy learned that I was disappointed not to be staying another year and I received from him a long handwritten letter imbued with the deepest personal feeling in which he voiced his concern that I would in any way think he was trying to supplant me. He offered to withdraw his candidacy for the post if that would make it easier for me. I naturally reassured him and urged him to take the job, since no one could possibly be more eminently qualified. What better example could one find of a man's integrity and sensitive regard for others?

ARMY'S NORTHERNMOST CEMETERY

Mr. GRAVEL. Mr. President, it pleases me to note the unusual Memorial Day ceremonies that take place each year at the tiny Army cemetery at Sitka, Alaska, the Army's northernmost cemetery. The ceremonies involve both military personnel and residents from the surrounding area, and recall two significant holidays.

Lyman L. Woodman, public information officer, Headquarters, U.S. Army Alaska, describes the unique ceremonies in the February 1972 issue of the official U.S. Army magazine, "Soldiers."

I ask unanimous consent that the article entitled "Under Northern Lights," written by Lyman L. Woodman, be printed in the RECORD.

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

UNDER NORTHERN LIGHTS

(By Lyman L. Woodman)

The sweet sad sound of "Taps" and the staccato volleying of honor guard rifles ring out not for one Memorial Day but for two at Alaska's tiny national cemetery atop a hill on an island in Sitka Bay.

The regulation ceremony at the end of May is staged by the people of Sitka who usually invite an Army chaplain from Fort Richardson, the nearest active Army post some 600 miles to the northwest. But the second is a military program with the civilian community invited to attend as observers. It is held on Alaska Day—October 18, anniversary of the date in 1867 when the imperial Russian flag fluttered down and Old Glory was raised at New Archangel, then capital of the Russian territory. Today the town is called Sitka.

The tiny cemetery—just an acre and a half—was established in 1868 by Brevet Major General Jefferson C. Davis (not to be confused with the Confederate president) who then was commanding general of the newly established Military District of Alaska. Buried there were soldiers from the five original forts established in Alaska—sailors and Marines who died aboard ships of the Navy or the old U.S. Revenue Cutter Service, some Russian nationals and some U.S. civilian administrators including John G. Brady, first governor of Alaska. Also interred there are some Americans killed in the Battle of Attu, including Charles W. Paddock, the famed three-time Olympic winner who in the 1920s was known as the "world's fastest human." A captain in the Marines, he was killed in an airplane crash in 1943.

The second memorial observance was started a dozen or so years ago when a small team from the 6th Battalion, 9th Infantry, took part. The unit, an element of the 171st Infantry Brigade at Fort Wainwright, traces its heritage to Company F, 9th Infantry, a unit of the 2d Artillery which raised the American flag in 1867.

Actually the program is a 3-day affair with the Army band from U.S. Army Alaska (USARAL) taking part with the color guard. Usually the USARAL command chaplain conducts the ceremony and the commanding general places a floral tribute on one of the 19 "unknown" headstones. After ceremonies at the cemetery the military groups reenact the original change-of-flag ceremonies on Castle Hill.

NATIONAL VENEREAL DISEASE PREVENTION AND CONTROL ACT

Mr. TOWER. Mr. President, I wish to indicate my wholehearted support of the "National Venereal Disease Prevention and Control Act," by joining Senators as a cosponsor of this significant bill.

Venereal disease is of epidemic proportions in the United States today. The number of reported cases of primary and secondary syphilis, after decreasing dramatically in the late 1940's and early 1950's, then began to rise, dropped slightly in the mid 1960's, and is now rising again. In fiscal year 1971 there were 23,336 cases reported. Reported gonorrhea cases, like syphilis, decreased through the late 1940's and early 1950's, but since 1957 have been steadily on the increase until in fiscal year 1971 there were 624,371 reported cases. Unfortunately, even these shockingly high figures tell only a small part of the story, for approximately four times as many cases of venereal disease are treated as are reported. This figure means that there were well over 2 million cases of syphilis and gonorrhea treated in the United States last year. Even more appalling, there are estimates that perhaps 500,000 individuals in the United States have syphilis and do not know it.

Both syphilis and gonorrhea are far more prevalent in urban areas; thus, our cities have reported rates for these diseases that far exceed the national average.

States, too, vary in reported rates for venereal diseases. Texas for example, has the third highest reported State case rate for primary and secondary syphilis, more than double the national average. Dallas and Houston are included in the top 10 cities in the United States with the highest per capita infectious syphilis rates. In a compilation of syphilis case rates for 160 cities, Austin and Lubbock were among the top eight, Houston and Dallas among the top 12, and San Antonio and Fort Worth among the top 22.

As for gonorrhea, Texas has the sixth highest reported State case rate. Houston and Fort Worth populations, for example, have a case rate of over one per hundred. These figures are over three times greater than the national reported average.

These statistics tell a grim but challenging story. Syphilis, which could be eradicated in the United States if cases were detected and treated promptly, is on the increase, with perhaps the most appalling result being the new increase in congenital syphilis in newborn babies. Gonorrhea, while more difficult to eradicate, could still be brought under control with adequate funding and programs. Sadly, it is our young people between the ages of 20 and 24 who have the highest rates of both syphilis and gonorrhea.

Given these staggering figures, what is being done currently to bring these diseases under control? Unfortunately, far too little. While the rates of venereal diseases have been increasing, Federal funds for VD research and for control programs have been at the same low level for several years, $6.3 million for fiscal years 1970 and 1971. Six million three hundred thousand dollars was also made available for fiscal year 1972, but recently, an additional $16 million was released for a new gonorrhea control program under the Center for Disease Control of the Public Health Service. Funds are also available to States under the Partnership for Health program of HEW; however, these funds are not designed for any specific programs within the States, so that it is up to the individual States to decide how much Federal money under these programs is used in VD control activities.

States and cities use some but not enough of their own funds in VD control programs. It has been estimated that for fiscal year 1970 only $11 million in Federal and State funds was available for State VD control programs, and only $8.6 million in Federal and local funds for VD control in the 15 largest U.S. cities.

It is clear from the statistics on VD incidence that present VD control programs are inadequate. More public health personnel are required to carry out epidemiological studies on syphilis to trace all contacts of all infected individuals, and a strong gonorrhea control program is desperately needed. All physicians in private practice should be encouraged to report more fully the cases of VD they treat so that epidemiological studies can be carried out on their patients. Continuing medical education programs are needed to keep physicians abreast of current developments in VD control. More emphasis upon VD studies in medical schools should be vigorously promoted. Public awareness programs must be developed, including a provision for better information for young people, and more screening programs to detect the 80 percent of gonorrhea cases in women and the 10 percent in men which are asymptomatic.

We should also provide considerably more funds for research in venereal diseases. An improved blood test is needed for more efficient identification of gonorrhea; the possibilities of developing vaccines, especially for syphilis, must be explored further; a better therapeutic agent is needed for gonorrhea since some strains are becoming resistant to penicillin; preventative methods must be de-

veloped; more information is needed to pinpoint the groups of people most at risk for the venereal diseases; and further research is needed in other sexually transmitted diseases such as the herpes virus which is implicated in cervical cancer.

Because VD was considered in the late 1940's through the early 1960's to be easily cured and, therefore, under control as a communicable disease, doctors in medical and clinical research lost interest in the diseases and young medical students ignored venereology as a specialty. Therefore, today there are not enough medical personnel studying the venereal disease problem. This trend must be reversed by appropriate adjustments in the medical profession and in medical education.

The proposed National Venereal Disease Prevention and Control Act would provide funds to stimulate both research and control programs in the venereal disease field. The bill authorizes $15 million annually for fiscal years 1972–74 to provide money for research in the prevention and treatment of the diseases $25 million annually for the same time period is authorized to make formula grants to States in establishing and maintaining public health programs in VD diagnosis and treatment. Finally, $30 million annually for the same period is authorized for project grants in VD prevention and control, including disease surveillance, case-finding and followup, interstate epidemiologic referral followup, and professional and public venereal disease education.

With the knowledge we have in our possession now we can do much to control gonorrhea and eradicate syphilis in the United States. Yet, there is more to be learned of an applied nature about venereal diseases and it is only through the stimulation of further research that we will be able to eradicate these diseases from the United States and from the world.

Mr. President, I believe that the programs provided for in the proposed National Venereal Prevention and Control Act will do much to stem the epidemic of venereal diseases which is now sweeping the country. I urge the swift passage of this important bill.

ANNIVERSARY OF THE ESTABLISHMENT OF THE REPUBLIC OF LITHUANIA

Mr. HUMPHREY. Mr. President, on February 16, Americans of Lithuanian descent celebrated the 54th anniversary of the establishment of the Republic of Lithuania and the 721st anniversary of the formation of the state of Lithuania. The anniversary is both momentous and somber.

The history and tradition of the Lithuanian state can be traced all the way back to the 11th century A.D. It is marked by the dedication of its people to freedom and independence, goals which we are still striving for to this very day. In addition, Lithuania and its citizenry have produced a flourishing culture which remains intact and is carried on by Lithuanians throughout the world.

The somber tone of this anniversary stems from the fact that Lithuania cannot celebrate the independence it once enjoyed. It is now under the domination of the Soviet Union and we all are concerned that the basic human rights of Lithuanians are upheld. With stories of the violations of these rights throughout the Soviet Union, hopes and concerns are not enough. We must actively join in an international effort to secure these rights wherever they are threatened. Lithuanian descendants in the United States and throughout the world have relentlessly worked toward this goal. It is an aim we all share and, consequently, I want to pay tribute to Lithuanians and their country for upholding their tradition of human dignity and freedom. Their struggle is a universal struggle, their anniversary is an international anniversary.

REMEDIES FOR PRISON DEBACLE

Mr. BROCK. Mr. President, concluding with personal suggestions for possible remedies to our continuing prison debacle, Mr. Ben Bagdikian writes his last in a series of eight articles.

My main purpose in having these articles reprinted was to bring congressional attention to this too easily avoided problem that persists in our society.

The views expressed by Mr. Bagdikian in these eight articles are not necessarily my own. They are the most sensitive and informative of the current articles that I have come across on our contemporary "prison system." An author of Mr. Bagdikian's caliber naturally proffers controversy, but controversy is often responsible for needed reforms. I admire his candor and congratulate him on this fine series.

On December 2, 1971, the Senator from Arkansas (Mr. McCLELLAN) and I introduced legislation that would create a National Commission on Corrections to spot problems in our prisons and provide recommendations and guidelines in correcting them. This national commission would consider such things as: Qualifications of personnel, health, safety, employment and counseling, general living conditions, recreation, and any other programs designed to prepare inmates to cope with the rules of society.

This is a national problem that crosses every boundary in our country. It must be met with national concern. This legislation is only a beginning. Until the American public is concerned enough to push for reform, our "institutions" will remain just that, and not "correctional rehabilitation centers."

Mr. President, I ask unanimous consent that this final article be printed in the RECORD.

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

AN AGENDA FOR REFORM OF A HELL BEHIND WALLS

(By Ben H. Bagdikian)

When you turned down Fourth Street you saw all the usual clues: the 14-foot cyclone fence with escapeproof top, the 5½-inch window frames looking normal but precisely too small for the passage of the human head, the high intensity lights around the perimeter.

But something was wrong. The gate was wide open and nobody was guarding it.

Inside it was eerie. Everything was in place. The plastic chairs were set around tables in the dining hall. The electric clocks were working but they were on daylight saving time, in the winter. In the Catholic chapel, the Virgin Mary was still wrapped in cellophane and on the Protestant side there were cobwebs on the candelabra.

Nobody was there.

The "new," five-year-old prison had never been used. The DeWitt Nelson Training Center eight miles from Stockton, Calif. was finished in 1967 for $5,800,000, completely furnished for $500,000 and in 1968 was on the verge of accepting the first of 400 juvenile inmates when suddenly everything stopped.

A lot else stopped, too. Through the fence you can see 800 acres of farmland, remarkable to the naked eye only for the magnificent oaks that stand against the sky. Unseen, below the surface, is a complex of water mains, sewers, gas lines and steam pipes already in place for connection to nine more prisons just like DeWitt.

Except that the new prisons were never built.

California made a shocking decision. Like the rest of the country its crime rate was rising—faster, in fact, than the national rate. Like the rest of the country, it was sentencing more people to prison, only for longer terms, up 50 per cent in ten years. It decided to try something else: keep more criminals free in their own communities with special help.

In the last five years, the equivalent of 15,000 California criminals who ordinarily would have spent time in prison walked freely in their home towns. Instead of spending $6,500 a year to maintain each prisoner in an institution, the state spent $4,000 to help him keep out of trouble at home. The state saved $196 million in new prison construction and its crime rate went up at no more than other urban states. The policy was promulgated by a governor, Ronald Reagan, not known for permissiveness toward crime.

The men who run prisons seem to agree that most of their inmates shouldn't be there. In visiting prisons, I asked every warden, deputy warden and director of corrections what percentage of his prisoners he felt needed to be locked behind walls. The highest estimate was 33 per cent, the lowest 5; most were between 10 and 20 per cent.

DETERRENCE OR DETERIORATION

Most also believed that American sentences are too long, that after a time deterrence is replaced by deterioration.

American society already turns loose most of its convicted criminals. About two-thirds of people found guilty of crime are out on probation or parole. Probationers repeat crime at an apparent rate of about 27 per cent, compared to 40 to 70 per cent for people who spend time time in prison.

This does not mean that no one ought to be restrained. Criminals dangerous to society will be imprisoned and have been in the most idyllic societies. But the country has to decide what it wants to happen inside the walls. Is the act of imprisonment itself the punishment? Or is punishment what happens after the criminal arrives inside the walls?

The way most jails and prisons are run, the walls are used to provide secrecy while varying degrees of deliberate damage are done to inmates.

Men are put in a harsh environment and subjected to uncertain anguish, psychologically and physically. They are further punished by placement in "the hole," a standard part of every prison in which the prison-

er is isolated without normal sights, sounds or tastes and is denied reading material or anything to occupy his mind and senses in a normal way. Psychologists say it can induce insanity.

Most prisons normally keep the prisoner as cut off as possible from his family and normal contacts. It is typical that outgoing mail is limited in quantity—sometimes ten letters a month—and is censored. It can be written only to persons approved by the prison. Incoming letters are limited to persons approved by the prison and these, too, are censored. Visiting is limited, typically to four hours a month. Often contact with visitors is limited to speaking by microphone through a wire mesh. Food is sparse and bad, treatment by guards frequently brutal and insulting. Overcrowded inmates prey on each other and the most ruthless establish the standard of conduct. Day after day is spent either in idleness or in dreary work at pennies an hour.

PATTERN ITSELF REPEATS

In riot after riot, the same pattern emerges: months or years of warden's requests, without results, for improved conditions in food, program, crowding and character of guards; followed by peaceful petitions of prisoners with no result; followed by promises, followed by minuscule results.

When he was in Sweden, David A. Ward, chairman of the department of Criminal Justice Studies at the University of Minnesota, took the list of 28 demands made by prisoners in Attica with him to meetings of the inmate councils and to Swedish prison authorities.

"I really felt ashamed," he says. "The prisoners and their keepers were astonished. There was only one Attica demand—full pay for work—that was not established practice there. They kept asking me. 'You mean that in America you still have to negotiate for adequate food inside prisons?'"

The courts are sentencing more criminals and decisions have to be made for their disposition. If no new facilities are built and more inmates are put into present prisons, densities will go even higher and there will be more human wreckage and riots; the formula for a bomb is to build an escape-proof container and increase the pressure inside.

If present prisons are modernized, it will cost from $15 billion to $18 billion. New prisons will cost about $22,000 per inmate capacity just for construction, and from $5,000 to $10,000 a year to maintain each prisoner. Society, already balking at the expense of building schools, is not likely to spend such money.

It is not the noblest of reasons, but prison reform could come because it costs too much to do anything else.

REEXAMINING "VICTIMLESS CRIMES"

The first reform should be to keep out of prison persons whose problem is chiefly medical or psychiatric. A place with custom-built locks and steel bars and untrained staff is not the place to treat drug addiction, for example.

The law and social standards need to be re-examined for "victimless crimes," illegal acts by which the offender affects only himself—drugs, alcoholism, prostitution, gambling. While the country is overwhelmed with crimes against innocent persons, it spends billions of dollars and millions of man-hours pursuing people who only do things only to themselves.

Where there are victims to crime, society should compensate them. This would not reduce crime but would diminish its social cost.

It is irrational for a society concerned with crime not to compensate its innocent victims. Nothing can pay for a murder or rape (though the police and hospitals should stop treating the victims of rape as though they were the criminals). But at least medical and psychiatric costs could be compensated. Property crimes are clearly payable.

The money involved is not a large amount, except to the victims. The average burglary loss is $150, which averges $6 per taxpayer a year; the average taxpayer already spends $17.20 a year to prosecute and jail burglary cases. In California the loss to owners is $7 million a year in car thefts, though the state spends $38 million in finding, prosecuting and imprisoning car thieves.

CHANGES ON THE INSIDE

For offenders who need to be locked up, prisons need to change.

Prisons should be small, the smaller the better. Large populations require regimentation and impersonal management and cause perpetual crises in control. The federal government recommends adult prisons with no more than 400 inmates, though it supports construction of larger ones. Some think 400 is too large.

Prisons should be in cities. Prisoner families are usually poor and cannot afford long trips by private transportation to remote locations where commercial lodging is required. Prison staffs need professionals, who are not found in rural areas and don't like to move there. Inmate programs for advanced education and practical occupational training require visits outside the wall, but outside the walls of rural prisons there are usually farms and villages.

The deliberate internal isolation of prisoners should end. Mail should be unlimited and uncensored except for inspection for physical contraband. Visiting should be unlimited except for common-sense rules. Sexual deprivation should end wherever possible. Conjugal visits inside the prison are better than nothing but they are demeaning and force the prison to decide who may conjugally visit an inmate. Regular home furloughs for all nonviolent inmates would end sexual deprivation and most induced homosexualism, and they would have other important benefits. Where all these things have been tried there has been a net gain for everyone, prisoner and keeper.

Prisoners and ex-prisoners need much practical help in returning to society and to repair personal problems that may have sent them to prison in the first place. They need contacts while in prison to keep in touch with families and employers, to provide reading material and crucial information. Maintenance of these contacts make the critical weeks after discharge less dangerous. Jobs need to be lined up, housing arranged, family ties reshaped. There are not enough professional workers to do this and if there were there is not enough money to pay them. Volunteers on a massive scale are needed, including ex-inmates. (In Sweden parole officers are all volunteers, many of them lawyers, doctors and teachers.) In New York City, some churches have adopted cell blocks of the city jail. In many prisons, the Junior Chamber of Commerce has opened chapters inside the walls. Prisoners desperately need volunteer lawyers.

Within the walls, prisoners need basic rights that no prison administration can violate. Physical and psychological torture should end other punishments—removal of privileges, transfer to other cell blocks, cancellation of furloughs, transfer to another prison, serious downgrading of assigned work—should be done only with a hearing by committees that include elected inmate representatives.

The perversion of indeterminate sentences and parole should end. Short, fixed sentences with time off for good behavior would be better than the unfair agonies imposed by uncertain sentences decided by an anonymous administrator. A judge may sentence a man to 12 years but an unaccountable guard or parole examiner may decide the last nine years and do it beyond the reach of any judge. The indeterminate sentence has meant that men can serve life for stealing $100 because they displease their jailers. Parole should end, and with it parole boards. Or else parole board decisions should be based on open, reviewable procedures with precise reasons given for denials. Since parole boards control more of a prisoner's life than any judge, they should be as accountable as judges and as subject to review and appeal.

The elaborate procedures of "treatment" have been ineffective and have dubious ethical grounds. The modern philosophy is that the criminal is "sick" and can be "cured" by rearranging his thinking and emotions. Genuine change of attitude comes voluntarily from within and there is nothing voluntary in imprisonment: prisoners do what they can to be paroled and avoid further punishment but it usually produces cynicism. "Treatment" has not reduced repeated crime. "Treated" prisoners repeat crime just as often as "untreated" ones. Self-examination or counseling can produce benefits to inmates. But they don't reduce crime by themselves and they create an elaborate game of fake conformity. One group that does avoid future crime more successfully are the "alienated," that is, those who do not do well in "treatment." What is needed more than anything else is practical, convincing job training and effective education.

Artificial barriers for ex-convicts and parolees should be removed. Parolees must get permission to marry and change apartments; they cannot get driver's licenses without permission or associate with people of poor repute. "My God," one parole worker said, "the parents of half of my clients have prison records—and they're not supposed to associate with them?" Many parolees come from neighborhoods where it is difficult to avoid people with police records.

Job barriers for ex-convicts are destructive and governments themselves are most guilty. Large categories of federal, state and local jobs are denied anyone with a criminal record, yet federal, state and local governments urge private industry to "hire the ex-convict."

Most licensed jobs are denied ex-convicts. New York State trains barbers in its prisons; New York State will not license an ex-convict to be a barber. In Michigan an ex-convict cannot be an ambulance attendant; in Illinois if you've been in prison you can't sell horsemeat. Ex-convicts usually cannot get auto and life insurance at normal rates.

The parolee and ex-convict are placed back into society and asked to compete with everyone else but they enter competition under heavier restraints than those who have not been to prison.

One result is that parolees and ex-convicts generally end up with the least attractive jobs with little future, making it easier to return to crime.

No prisoner should leave an institution directly to outside life without a period of relative freedom and preparation for coping with the real world. In South Carolina, all prisoners in their last 90 days are in an unlocked classroom facility where they are given courses in such practical problems as buying used cars, finding housing and filling out job applications.

There should be a multiplication of halfway houses, small facilities inside cities where prisoners live in open conditions doing work or attending school in a free atmosphere, with help available if it is needed.

The secrecy within prisons should end. Sophisticated men like to repeat that power corrupts and absolute power corrupts absolutely. There are few places in the world where anyone has absolute and complete power over another human being. Prison is one such place.

It is an awesome power, with the ability to produce physical pain, mental disintegra-

tion and protracted caging. Yet it is done almost entirely in secret, without accountability or inspection.

Openness of prisons is needed not because wardens are wicked but because they are human: in a closed arena of prisoner-and-keeper, the relationship almost inevitably leads to pressure and counterpressure.

THE PROSPECT OF TORTURE

Americans don't like to face it, but physical torture goes on in this country's prisons and there is little done about it. Court suits have produced some change, but these are occasional glimpses behind the wall. When the examination ends the tendency is to return to sadism and savagery.

A year ago, a federal judge ruled that Arkansas' state penitentiary, the scene of years of tortures, was "unconstitutional" and he ordered sadistic treatment stopped. Last November, the judge held a hearing to see what had happened. Still going on, according to inmates testifying under oath, was placing of naked prisoners into unheated punishment cells; beating of handcuffed prisoners; putting a prisoner naked in a bare, concrete cell for 28 days without bed, blanket, or toilet paper; Macing of an inmate in his cell by drunken guards; placing an inmate on the hood of a pickup truck that went 60 miles an hour over the fields; stripping prisoners naked and forcing them to lean against a wall with their noses for six hours at a time.

Not all prisons match such torture but without supervision and openness, all have the potential of degenerating into it.

The answer is not rules and regulations or even court orders alone. Openness to inspection by the public and by the press is the best guarantee. Visiting committees of a mixture of citizens who can examine an institution without warning should be the rule of every prison and jail jurisdiction in the country.

At present, prisoners in most places are forbidden to make contacts with the press, or press with prisoners. Parolees are often told that they will be held responsible (meaning threatened with a return to prison) for anything appearing in the press about them or their prison.

THE OLD, EASY ANSWERS

Prisons do not stop crime. They only punish it.

Unless the sources of crime are stopped, all the prisons imaginable will not protect the public from new and repeating criminals. The easy answers for the cause of crime have been available for years: too much "permissiveness," not enough church-going, not enough hard punishment.

"Permissiveness" usually means that people have the money to move around and do what they wish and this has been more true of the middle classes who usually don't go to jail than of the poor who do. Slum families tend to be more authoritarian—hard rules with corporal punishment—than middle-class families.

In the last decade, church attendance has dropped only slightly but crime increased 143 per cent.

And in the last five years punishments have become more harsh and the crime rate increased faster than ever. Nor did hard punishment work in the past when unconnected with social change at the source. During the reign of the original Queen Elizabeth, vagrants were hanged in lots of 300 and 400 but vagrancy did not cease. Henry VIII hanged 72,000 persons but it did not bring civil peace.

THE THREAT TO SOCIETY

The less easy answer to the causes of crime may lie in the slum neighborhoods that most prisoners come from and from the phenomenal growth in use of drugs by the young. The poor are generally families caught in a radical change from uneducated rural life to technological urban demands, in a society that puts a high value on aggressiveness, possession of material goods, guns and other violence.

It is an incredibly rich society that nevertheless tolerates endemic poverty and racial depression and does it within sight of wealth. The poor usually live in chaotic neighborhoods with ineffective schools and poor career choices. The connection between poverty and antisocial behavior is historically clear and is pertinent today.

The withdrawal into drugs should warn about the lack of purpose that suffuses a society surfeited with material goods.

NO SIMPLE ANSWER

There is no simple answer to crime.

Under the best of conditions there will be some individuals dangerous to others who will be restrained. The first requirement of their institutionalization is that it ought to be humane and that their aggression not worsened. The two are related. Today prisons receive troubled men, women and juveniles and deliver them back to society more unsuited to normal life and more savage than before.

But personality traits are not unconnected to the world the individual grows in. David Bazelon, chief judge of the United States Court of Appeals in the District of Columbia, has said:

"Instead of facing up to the true dimensions of the problem and admitting that violent crime is an inevitable byproduct of our society's social and economic structure, we prefer to blame the problem on a criminal class . . . They may simply be responding to an environment that has impoverished them, humiliated them and embittered them."

Thomas Callinan, head of the New York State association of probation and parole officers, has spent his life trying to rehabilitate criminals:

"You know where it all comes from—the ghetto. They come from a sick environment. We pour money into the police and the courts and prisons but we don't put it into what causes it all in the first place—poverty and race."

Ennis J. Olgiati heads a New York project for keeping arrested persons from jail and prison by getting them jobs before they are tried and found guilty. He says it succeeds well but unless the problem of drugs and other destructiveness is solved, catastrophe lies ahead:

"All the storekeepers will have iron gates, all the homes and apartments will have bars on windows and doors. Then the addicts will turn to acetelyne torches and machine guns. And we'll lose the city."

Prison does not change this. Men come out with the same problems that sent them in. They need individualized education up to standards that let them compete in a technical society. They need modern training in modern jobs with a future at good pay. They need to live in decent housing in civilized neighborhoods at moderate cost. They need effective community services, volunteer and professional, for the personal and family crises that periodically overtake most people.

But this is a dilemma. Why do more for lawbreakers than for the ordinary citizen who needs the same things? The answer may be to provide it first for the ordinary citizen who needs such services and it is possible that in the future there will be fewer lawbreakers.

So far, society has not stopped the rise in crime despite added billions of dollars for more police and more punishment. The failure threatens a free society. Citizens in their homes and on the streets are justifiably frightened by threats to themselves and their property. Yet violence, including the adoration of guns, continues. The barricading of people in their homes and abandonment of public places goes on. It is an escalating war between the comfortable who want peace and the uncomfortable who don't.

If the only answer is to imprison the growing number of captives in this warfare, it could result in a society forced to be more concerned with physical security than with freedom, a nation of jailed and jailers where in the most perverted sense each person will be his brother's keeper.

HARDSHIPS CONFRONTING THE HANDICAPPED ON COLLEGE CAMPUSES

Mr. DOLE. Mr. President, too few people are aware of the numerous inequities and hardships which face the handicapped in our society, but many citizens have become more aware of the problems which a handicapped person experiences when attempting to lead a more productive life. These problems still exist for the handicapped, and especially to those who choose to further their education.

In testimony before the House Select Subcommittee on Education regarding a provision in H.R. 8395, to establish a national information and resource center for the handicapped, I mentioned a young man named Jim Warnken. His name is one of the many which has appeared on the college campus enrollment lists for the 1972 spring semester at Kansas State University, in Manhattan, Kans. But, unlike many of his classmates, Jim has a physical handicap. He has overcome many obstacles to pursuing a college education, but on the Manhattan campus he continues to encounter many barriers—of the physical variety—which have not yielded to his efforts. Many handicapped individuals have discontinued their studies at Kansas State and other institutions to attend schools which already have more accessible campuses with curb ramps and elevators to accommodate the handicapped. Jim is determined to remain at Kansas State, however, and direct his efforts toward altering the campus to his needs and those of others who might wish someday to study there too.

Jim's story is told in an informative article published in the Kansas State Collegian of January 1972. I ask unanimous consent that it be printed in the RECORD to call attention to one young man's efforts to bring positive constructive change to an institution's design and remove architectural barriers to the handicapped. The information in this article may be helpful to others who strive to improve the educational facilities available to the handicapped.

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

THE KANSAS STATE CAMPUS—A HANDICAP—ON TOP OF A HANDICAP

(By Rick Dean)

Try counting the number of steps you climb a day as you hurry from class to class. You probably can't. Most of us take climbing steps for granted.

Imagine the same situation except this time you're confined to a wheelchair. Chances are you'll count every step you take.

"The campus at K-State is totally inaccessible to wheelchair students," James Warnken, senior in radio-tv, said.

Warnken, who is paralyzed from the waist down and confined to a wheelchair, currently is spearheading a drive to make the campus conducive to wheelchairs. His goal is to level several curbs and add ramps and possibly elevators in many buildings.

On Jan. 27 Warnken met with Paul Young, vice-president for University development, and with representatives of the State Rehabilitation Center in Topeka to discuss plans for a rehabilitation program at K-State.

"It was a get-acquainted meeting, so to speak," Young said.

"We basically met to hear Jim's ideas about changing the campus and to find out what programs were available to the University," he continued. "We haven't had time to investigate these programs in detail, but we are definitely planning to look into them.

"There is a possibility federal funds are available to finance such a program.

"But this program must entail more than just knocking out a few curbs and putting up some ramps. It must involve setting up an entire rehabilitation program including counseling and physical therapy, as well as plant changes."

Young noted such a program would be costly and comes at a time when funds for University operation are scarce.

Problems of navigating a wheelchair on the K-State campus would seem insurmountable to most people, but not to Warnken. He manages to climb most University curbs by raising the front wheels of his chair, then pulling the back wheels over.

Coming to school from his home at 1016 Moro is another problem.

"You'll never know why they call this campus the 'Hill' until you've tried to propel a wheelchair up it," Warnken said.

He is usually able to find help in climbing stairs to his classes. It takes three people to push-pull Warnken up stairs.

"It's something of a blow to your pride when you must ask for help, but I've come to understand it's something I must do," Warnken said.

The only state school with facilities for wheelchair students is Kansas State Teachers College in Emporia. At KSTC all buildings are equipped with inclined ramps to classrooms, leveled curbs and elevators.

Warning signs caution motorists of special wheelchair crossings and signals were installed for handicapped students. Many drinking fountains are lowered, enabling wheelchair students to easily get a drink of water.

KSTC also has a massive rehabilitation program, which includes a counseling program, physical therapy center, and special classes geared to handicapped students. Wheelchair basketball leagues also have been formed.

The University of Missouri in Columbia and the University of Illinois also have such facilities.

A Federal law passed in 1971 requires all new university buildings to be accessible to wheelchairs. The only such buildings at K-State are Cardwell, Ward and Ackert Halls. But even these buildings have problems.

"In Ward we have an elevator shaft but no elevator," Young said.

He also noted, while Cardwell has an elevator, it is ramped solely on the north side, while Ackert is ramped only on the east side.

"And then you must be sure the doors are wide enough," Young said.

Young explained the problem at K-State would be to rennovate the older buildings for wheelchair students. He emphasized that in order to put an elevator in one building, several classrooms would have to be eliminated and the elevator shaft installed. In fact, Young said, several structures were built with a space for elevators but later were converted into classrooms.

Anybody could make a survey of buildings on campus and note most of the newer ones have some type of street-level entrance, while older structures have many steps leading to the main floor.

But even if the University were to lower curbs and raise ramps, Warnken believes the problems of wheelchair students still would be unsolved.

Much of the difficulty encountered by handicapped people involves their relationship with others.

"People have the idea imperfection or disability is something bad and they don't want to accept the handicapped person as a human being," Warnken said.

"They try to block imperfection out of their minds," he continued. "But they will have to accept the fact that a handicapped person is not an invalid or disease carrier, but a contributing human being.

"Several people are opposed to the idea of making this campus accessible to wheelchairs, saying we don't need such facilities because there aren't many handicapped students.

"What they're really saying is they don't want to be exposed to wheelchair students or handicapped persons.

"A handicapped person needs a degree to overcome his disability. Not being able to get the education you want is like putting a handicap on top of a handicap.

"I've been trying to make myself as obvious as possible to make people realize there's nothing wrong with me. I'm a human being, just like they are."

Warnken was injured in a mountain climbing accident in Big Thompson Canyon on Sugarloaf Mountain. He fell approximately 85 feet, breaking his spine in the fall. He spent more than three months in the Craig Rehabilitation Center in Denver, Col.

"Doctors told me I would never touch the top of my head, move either of my hips, or have any feeling in my legs," Warnken said, as he touched his head and moved his hips.

Warnken is currently a disc jockey for KSDB, and his ultimate goal is "to come wheeling in before Walter Cronkite and give a newscast."

If K-State does establish a rehabilitational program, the final decision will rest with the Board of Regents.

"If it were only leveling a curb or two we would do that ourselves," Young said. "But either we do the whole program or we don't start it at all.

"As is the case with many things to be developed on campus, money is the big drawback, but we're seeking funds."

Warnken, too, would like to see a complete rehabilitation program inaugurated here, but as he says, "I'd be happy just to see a few curbs lowered and some ramps put up."

NORTHERN IRELAND SECRET PEACE PROPOSAL—"THE DOVE THAT DIED"

Mr. RIBICOFF. Mr. President, since my introduction last October of Senate Resolution 180 dealing with the tragic situation in Northern Ireland, I have warned that Ulster was becoming Britain's Vietnam. The most dramatic evidence of this sad fact was the bloody Sunday in Londonderry. Now, Columnist Pete Hamill writing in the New York Post, has revealed how the British Government rejected a secret five-point peace proposal acceptable to both the Catholic and Protestant leadership in Northern Ireland. This is reminiscent of the many abortive efforts to find peace in Indochina.

There is reason to believe that the events related by Mr. Hamill are substantially correct. In any event, the failure of this attempt to find a peaceful solution lends additional weight to the need for our own Government to play a role in ending the bloodshed and discrimination in Northern Ireland. The recommendations contained in Senate Resolution 180 provide a suitable framework for bringing peace and justice.

I ask unanimous consent that Mr. Hamill's article of February 12 be printed in the RECORD along with Senate Resolution 180, which has been cosponsored by Senators KENNEDY, WILLIAMS, PASTORE, and HARTKE.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

THE DOVE THAT DIED

(By Pete Hamill)

DUBLIN.—On the Thursday before Bloody Sunday, the British government was presented with a secret five-point plan that could have brought an immediate IRA ceasefire in Northern Ireland, to be followed by a peace conference. The British rejected the plan, and by the following Monday morning all hope for a swift peace seemed to have been lost in the slaughter in the Bogside.

The plan was presented to "very high officials" in the British Home Office by Dr. John O'Connell, a Labor member of the Irish Parliament in Dublin. O'Connell had been working for weeks to try to find a way out of the political and diplomatic impasse that had been in effect since internment without trial started last Aug. 9, and for a few days he seemed to have succeeded.

"O'Connell wanted to see the killing stopped and the talking begin," said a man who was very close to the negotiations. "Since he was not part of the ruling Dublin government, he had certain advantages over many people."

O'Connell first approached leaders of the Provisional IRA in Dublin. After a series of discussions, the Provisionals agreed to halt the campaign of bombing and shooting in the North if certain concessions were made. This in itself was encouraging, because the Provisionals had been stereotyped as hard-nosed gunmen who would fight to the bitter end.

Basically, the Provisionals agreed to an immediate 30-day ceasefire, if the British government would stop internment. During that period, while groundwork was laid for a peace conference, the British Army would be confined to barracks, and army harassment of Catholics in the North would come to an end. The Official IRA went along with the plan as long as it guaranteed that the British Army would be confined to barracks.

"The key there was an agreement that internment would end," the source said. "That then freed the politicians in the SDLP to join the negotiations."

The Social Democratic and Labor Party (SDLP) is the major opposition party in the North, and has withdrawn from the Stormont Parliament until internment is ended. If the IRA could agree, even to a phased-out end of internment, SDLP leaders would then be free to negotiate. O'Connell made clear, however, that the IRA would have to have a seat at the conference table.

With agreement from the IRA and SDLP, O'Connell then traveled North to see the Rev. Ian Paisley, the Protestant militant whose constituency includes the most hard-lined Protestants in the North.

In a series of extraordinary discussions, O'Connell managed to convince Paisley that a peace conference was necessary to end the killings, but that Paisley and the IRA must be present at the table. O'Connell reminded Paisley that Michael Collins, one of the greatest of all IRA leaders, had attended the peace conference of 1920, and Paisley agreed that this was a legitimate precedent.

Paisley went along with O'Connell's plan.

And so, armed with agreements from the major opposition party, both wings of the IRA and the most powerful Protestant militant, O'Connell traveled to London on Jan. 27 for meetings at the Home Office. There were five basic points in his proposal.

1. Amnesty for all political prisoners. (More than half the 750 people in the camps are being held for their political beliefs and are not members of the IRA.)

2. The end of internment.

3. The immediate withdrawal of the British Army to barracks.

4. The complete restructuring of the Stormont government along democratic lines.

5. A declaration of intent by the British on the future of Ireland.

If the British agreed to a conference, the Provisionals would have put a ceasefire into effect immediately, as a sign of good faith. If at the end of 30 days, internment was also ended, talks would begin the following week.

Despite a public statement about not sitting down with gunmen, the British were prepared to admit the IRA to the conference table. Initially, they had no trouble accepting the first four points but were shaky about the fifth because that dealt with the reunification of Ireland.

"We told them that the fifth point did not have to be agreed upon going in," the source said. "That's what the conference would be all about."

Unknown to O'Connell, Northern Ireland's Prime Minister Brian Faulkner was in a nearby room during these top secret talks, and was being informed of all developments. At the end of the day, O'Connell was asked to stay overnight in London for further talks in the morning. He agreed.

The following day, he returned to the Home Office and the British turned down the whole package.

Their only apparent excuse was that "We didn't know what would happen if the talks broke down." O'Connell flew back to Dublin. Within 48 hours, 13 people were dead in the streets of Derry, and a major chance of peace had been lost.

"They are either very stupid," the source said, "or they already had planned the events at Derry and had opted for a military victory over the IRA. Either way, we are now back at square one."

S. RES. 180

Resolution calling for peace in Northern Ireland and the establishment of a United Ireland

Whereas the continuing violence and bloodshed in Northern Ireland is a cause of the deepest concern to Americans of all faiths and political persuasions;

Whereas the causes of the present conflict may be traced to the systematic and deliberate discrimination in housing, employment, political representation, and educational opportunities practiced by the governmental authorities of Northern Ireland against the minority there;

Whereas the Governments of the United Kingdom and of North Ireland have failed to end the bloodshed and have failed to establish measures to meet the legitimate grievances of this minority;

Whereas continued repression and lack of fundamental reforms in Northern Ireland threaten to prolong and escalate the conflict and the denial of civil liberties: Now, therefore, be it

Resolved, That the Senate of the United States expresses its deepest concern over the present situation in Northern Ireland, and in accord with fundamental concepts of nondiscrimination, fairness, democracy, self-determination, and justice, requests the Government of the United States at the highest level to urge the immediate implementation of the following actions:

1. Termination of the current internment policy and the simultaneous release of all persons detained thereunder.

2. Full respect for the civil rights of all the people of Northern Ireland, and the termination of all political, social, economic, and religious discrimination.

3. Implementation of the reforms promised by the Government of the United Kingdom since 1968, including reforms in the fields of law enforcement, housing, employment, and voting rights.

4. Dissolution of the Parliament of Northern Ireland.

5. Withdrawal of all British forces from Northern Ireland and the institution of law enforcement and criminal justice under local control acceptable to all parties.

6. Convening of all interested parties for the purpose of accomplishing the unification of Ireland.

SENATOR CARL HAYDEN

Mr. BROCK. Mr. President, never having known the late Senator Carl Hayden, I have no unique anecdotes or personal remembrances to offer with my respects. I know only of his long and prestigious service to this body. For this record I have the greatest admiration.

A man who brought his home to statehood, saw the coming of the age of the telephone, the automobile, radio, television and space must have known the profound and capricious nature of this land. I only wish I had the benefit of his knowledge and perspective gained from his long life and tenure in the Senate. The wisdom of age is not easily given or accepted, but I imagine that Carl Hayden would have given freely.

Arizona has lost one of its greatest statesmen, a man whose service to his country was exceeded by no one. The motto of his beloved Arizona is "Ditat Deus"—God Enriches. Truly, this territory and 48th State of the Union was enriched by his presence.

AFL-CIO URGES FUNDING FOR RADIO FREE EUROPE AND RADIO LIBERTY

Mr. HUMPHREY. Mr. President, at midnight tonight the funding for Radio Free Europe and Radio Liberty will end. At this time the continuing resolution will expire and there will be no authorization measure to provide for appropriations. The future of Radio Free Europe and Radio Liberty waits upon this legislation.

This situation has occurred before in the Congress, but what is startling in this case is that both Houses have already passed authorization bills. What the Congress is waiting for—and it has been waiting for some time—is for the conferees to meet to agree to an acceptable authorization formula. In this case the will of the Congress, and I am confident that it is also the will of the American people, is not being carried out by the conferees for S. 18, the authorization bill for funding these two great radio stations.

The explanation offered is that Radio Free Europe and Radio Liberty are relics of the cold war and as such should be done away with. I contend that nothing could be farther from the truth, unless the attempt to liberalize thinking in Eastern Europe and the Soviet Union is strictly an effort to promote the cold war. No, it is not. It is an attempt to communicate a variety of views to peoples who would otherwise only hear news as distilled through the controlled press of their closed society. It is an attempt to break down cold war thinking and instill an appreciation for liberty.

If we are to push for a reduction of conflict and further accomodation with the Soviet Union, we have to work in every way possible to pressure Soviet leaders to be flexible in their position. We must be able to communicate with people in and under the influence of the Soviet Union, and we can do just that through Radio Free Europe and Radio Liberty's programs. Agreements like the one we are expecting to come out of the strategic arms limitation talks depend on constant information flows. Such positive developments, of which there have been far too few in our relations with the Soviet Union, are made possible only by the behind-the-scenes influence of progressive and informed elements in Soviet society: scientists, writers, educators, and others. Such people in the Soviet Union and other peoples in the Soviet world depend on the core of objective information which they receive in broadcasts by their fellow countrymen over Radio Liberty and Radio Free Europe.

It would be tragic for the United States to lose these devoted audiences and the splendid communication facilities which these two radios have built up over the years. Their constructive role is documented in a recent study by the Congressional Research Service, which should be given wide public circulation.

I, too, hope that tensions between the Soviet Union and the United States will one day disappear, but I also believe that failure to save these two radios would not only harm the interest of the United States now in the Soviet world, but would also be a declaration to Europe of a declining American interest in the affairs of the continent.

I now invite the attention of Senators to an excellent resolution adopted yesterday by the AFL-CIO executive committee meeting in Miami. I commend Mr. George Meany and the executive committee for having passed this timely resolution and given such complete support to one of our country's most exemplary organizations. This resolution expresses firm support for Radio Free Europe and Radio Liberty because of the great work they have done and will continue to do.

Mr. President, I ask unanimous consent that the resolution be printed in the RECORD along with today's Washington Post editorial on the same question.

RESOLUTION ADOPTED BY AFL-CIO EXECUTIVE COMMITTEE, MIAMI, FEBRUARY 22, 1972

The future of Radio Free Europe and Radio Liberty is being decided in Congress.

The closing of these vital communications with the captive peoples of the Soviet Union and Eastern Europe will be a clear sign of U.S. capitulation in the war to bring truth and courage to countless millions behind the iron curtain.

The Soviet Union has spent more than $300 million annually to stop these effective broadcasts and the Soviet Union has until now failed.

The Executive Council urges the responsible leadership of both Houses of the Congress to demand the passage of a fully funded program which has the overwhelming support of the membership in both Houses and the American people.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

RADIO FREE EUROPE STILL HAS A PART TO PLAY

When American public—or political—opinion swings, it tends to swing hard, and this is likely to be more and more of a problem for the Nixon Administration as it trumpets its "breakthrough" in Peking this week and, presumably, further successes in Moscow in May. No matter what the true measure of the rapproachement achieved in either Communist capital, there will be a tendency on the part of some to exploit a "new era" in world relationships as a reason for scuttling anything and everything that smacks of the dark, old Cold War days. A case in point is the effort now being conducted in the Senate, largely by Senator Fulbright, to choke off appropriations for Radio Free Europe and Radio Liberty, which beam broadcasts into Eastern Europe and the Soviet Union, respectively, with the help of government funds. The CIA used to finance these broadcasts covertly and after this was brought inescapably to light two years ago the government took over the burden openly, but on a temporary basis while debate continued about whether these operations should be continued, and in what form.

With the question still unsettled, a continuing resolution authorizing temporary funding of RFE and RL expires today and the money will run out in a few weeks. This is just what Senator Fulbright thinks should happen, his point being that everything is changing, what with Mr. Nixon's new approaches and new evidence of conciliation in China and the Soviet Union, and that therefore RFE and RL should "take their rightful place in the graveyard of Cold War relics." The Senator would have us believe, on the basis of White House briefings he has received about the President's policy, that broadcasts of this sort behind the Iron Curtain are contrary to the President's purposes in Peking and Moscow.

The President, however, has not only never said as much, but has actually expressed quite the opposite view; in a recent letter to Mr. Stewart Cort, the chairman of a fund which seeks to raise private money to supplement RFE operations, Mr. Nixon said he thinks the free flow of information is "indispensable" to more normal relations between East and West. Given the nature of the service performed by RFE and RL, it would seem to us that their programs fit the President's definition of what is still needed in Europe, for all the bright hopes of easing tensions and developing detente. For these are not provocative, propagandistic diatribes and still less do they "sell" America, U.S.I.A.-style. Rather, what both stations attempt to do is tell the people of Eastern Europe and Russia news about themselves and their own countries which their governments don't want them to hear. They do this job professionally, responsibly, and effectively, by almost all accounts, and the only real question for Congress, in our view, is how RFE and RL should be set up in a more permanent way so that they can go on doing it.

THE PEOPLE'S STATE OF THE UNION

Mr. HARRIS. Mr. President, it is a tradition every year that the President of the United States presents to Congress his vision of the state of the Union. Then in established ritual, the President's supporters and his critics step forward either to endorse or attack this vision.

On January 25, I organized a Peoples' state of the Union in an unemployment hall close to the Nation's Capitol. The purpose was to give an opportunity to some additional Americans to express their vision for this country.

Those participating were: Nelson Cruikshank, president, National Council of Senior Citizens; Tony Dechant, president, National Farmers Union; James A. Gavin, legislative director, National Federation of Independent Business; LaDonna Harris, president, Americans for Indian Opportunity; Dennis Hayes, former coordinator and now consultant, Environmental Action; Nicholas Johnson, Commissioner, Federal Communications Commission; John Kerry, spokesman, Vietnam Veterans; Ralph Nader, consumer advocate; James Simmons, president, Gulf Coast Pulpwood Association; Margie Tabankin, president, National Student Association; George Wiley, executive director, National Welfare Rights Organization; and myself.

Their purpose in joining me was not to seek agreement on all issues. Rather, it was to provide an alternative vision, or several of them, as to where our country is heading.

I believe it is vital that more Americans step forward to do this. More and more Americans, whatever their political loyalties, believe that we are passing through a period of crisis in our national life. We need all the good advice we can get in finding the best solutions to our problems.

Mr. President, I believe it will, therefore, be of interest to Senators to read what several distinguished Americans believe is now the state of our Union. I ask unanimous consent, therefore, that the statements of all who participated in the People's state of the Union be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

PEOPLES STATE OF THE UNION—PARTICIPANTS

Senator Fred R. Harris—Senior United States Senator from Oklahoma

Nelson Cruikshank—President, National Council of Senior Citizens

Tony Dechant—President, National Farmers Union

James A. Gavin—Legislative Director, National Federation of Independent Business

LaDonna Harris—Convener and Operating Committee Member, National Women's Political Caucus; President, Americans for Indian Opportunity; Member, Board of Directors, National Urban League

Dennis Hayes—Former Coordinator and now Consultant, Environmental Action

Nicholas Johnson—Commissioner, Federal Communications Commission

John Kerry—Spokesman, Vietnam Veterans

Ralph Nader—Consumer Advocate

James Simmons—President, Gulf Coast Pulpwood Association (Association of white wood haulers in Mississippi which joined with Mississippi NAACP in striking the Masonite Corporation in November, 1971)

Margie Tabankin—President, National Student Association

George Wiley—Executive Director, National Welfare Rights Organization

STATEMENT OF U.S. SENATOR FRED R. HARRIS

We have come here today with more hope than despair, though there's despair enough.

We have gathered not in partisanship nor even total agreement with each other, but in a belief in common goals and the strengths of coalition.

There is a new populist vision for this country. And we hope we may be able to express a part of it and help bring it into being.

The state of the union is not a matter of budgets and bills, nor of dollars and deficits.

It is a matter of how a people see themselves.

And we look at ourselves and find no reassurance of our rectitude, nor inevitability of our promise.

We see an America more involved in destroying foreign villages than in making liveable our own.

We are asked to increase arms in the name of peace, donate to dictators in the cause of freedom, tax the poor and subsidize the rich in furtherance of free enterprise.

We are asked to remain a country where children are taught about the virtues of self-reliance in inferior schools, where health is a privilege and unemployment seems more a measure than a human condition. A nation lost in pragmatism and geopolitics.

But our people have a higher vision of themselves. And they know the basic questions.

Where is the sense of shared ideals and common struggle, of belonging to something bigger than ourselves?

What does it mean to be an American? Or better still—what should it mean?

A decent life—not as a gift, but a right. A fairer share for all. A nation willing to be judged on what it does, no less outside our shores than here at home.

A people who see and act upon the timeworn truth: that peace and justice are symbiotic twins which cannot live apart.

Not region, sex, nor race nor age can long divide a nation of that kind.

But we must seize now upon this chance, look at what we are and what we're asked to be.

America can be whole again. Not, as we're asked, by making an unfair tax system even more unfair, not by continuing the too-great concentration of economic power, not by ignoring the need for jobs and health and homes while spending more and more on arms.

There is greatness in our people. And power, too. Calling forth both is a task worth our efforts.

STATEMENT OF NELSON H. CRUIKSHANK PRESIDENT, NATIONAL COUNCIL OF SENIOR CITIZENS

The nation's elderly are angry.

They have stood by, watching the Federal government hand out billions of dollars for arms and defense and additional billions to business and corporations in the form of whopping income tax reduction while they wait, wait and wait for an urgently needed Social Security increase.

Older Americans do not riot or threaten violence, yet they are the poorest of the U.S. poor. Their number is steadily increasing as galloping inflation cruelly reduces their buying power because their incomes are fixed.

There are nearly five million men and women age 65 or over who are impoverished. Millions of others—at least two million more—are very close to the poverty line.

The 3,400 delegates to last month's White House Conference on Aging had these grim facts very much in mind as they demanded that the Nixon Administration and Congress realign national priorities to make life better for the poor, infirm and elderly as well as for defense contractors and investors.

The White House Conference delegates spoke out loud and clear for immediate action by the Administration and Congress on their increasingly desperate problems. They called for an immediate 25 per cent boost in Social Security benefits. As a matter of fact, a 20 per cent Social Security cash benefit in-

crease could be achieved right now without additional contributions to the Social Security trust fund if Congress accepts the rising earnings base of actuarial assumptions for the Social Security program recommended by the highly respected Social Security Advisory Council.

The White House Conference delegates also said they want a floor of income amounting to $4,500 a year for an elderly couple adjusted annually to increases in prices and living standards, with 75 per cent of that amount reserved for individuals.

Financing should, they said, come from the Federal Social Security tax on workers and employers augmented by Federal general revenue.

Four out of five older Americans have some form of illness or disability. Adequate health care is equally important to them as income. Because of the ever-rising out-of-pocket payments they must put up, more and more elderly poor are denied the benefits of Medicare, the Federal health insurance program for those age 65 and over.

That is why delegates to the White House Conference on Aging urged comprehensive health security legislation without regard to age or economic status financed with a Social Security tax on workers and employers and by Federal general revenue with no out-of-pocket payments, cutoffs or other barriers imposed.

Health security legislation pending in Congress would pay at least 70 per cent of the health costs of the average citizen. Medicare pays less than half—43 per cent—of the health cost of older people.

Pending adoption of health security legislation, the White House Conference delegates asked for an expansion of Medicare to cover out-of-hospital prescription drugs, broadened home health services and other alternatives to nursing home care and coverage of dentures, eye glasses, and hearing aids, together with provision for foot care and dental care (none of which Medicare now pays for.)

The White House Conference delegates also called for construction of 120,000 new elderly housing units a year, a nation-wide community service program for employment of the low income elderly and adequate funding of legal research and services for the low income elderly.

A nation that can budget the astronomical sum of $70 billion for arms and defense and a nation that gives away billions to business by cutting income taxes in that amount can surely afford to do something for the elderly.

STATEMENT OF TONY T. DECHANT, PRESIDENT NATIONAL FARMERS UNION

Some twenty million people have left the farms and rural communities over the last twenty years because of chronic low farm income. Many of the problems of our cities have their roots in rural America and we must meet the challenge of not only stemming the continuing senseless migration to the cities but of reversing it.

I search in vain in the "State of the Union" message for words of encouragement to farmers. President Nixon refers to a program to raise farm income, but he does not tell us what the program is. Surely it cannot be the Agricultural Act of 1970. That is his bill. Under threat of veto it was forced through the Congress in 1970 by his first Secretary of Agriculture. In its first year of operation, during 1971, it resulted in run-away production and the lowest farm prices in years.

The President lauded the American farmer, by indicating that while the productivity of our non-farm industries has gone up 60 percent during the last 20 years, agricultural productivity has gone up 200 percent, or nearly 3½ times as much. 25 years ago, in 1947, 14 persons were supplied with food per farm worker and now, 45 persons are supplied. We have increased farm output 38 percent in these last 25 years. Ironically, net realized farm income in 1947 was $15½ billion and that is the same figure for 1971.

President Nixon has promised to increase farm income in 1972. Yet he ignored completely in his "State of the Union" message the most important legislation now pending in the Congress for improving farm income. The bill is H.R 1163, which passed the House early last December and on which hearings were completed by the Senate Agriculture Committee this week.

The bill would increase income of wheat and feed grain farmers by $1½ billion. Because it would do this by increasing the loan rate by 25 percent—and thus be worked through the marketplace rather than working through direct Government payments—the bill would require no substantial increase in Government outlays.

President Nixon's new Secretary of Agriculture, Earl Butz, opposes this bill. Although farm prices have been rising a little in recent weeks, I am convinced that this is so largely because the House-passed bill is pending in the Senate. If it is defeated, I predict prices will drop and the migration from the farms will be accelerated.

STATEMENT OF JAMES A. GAIRN

I wish to thank Senator Harris for this opportunity to be here and to be able to comment on the affairs of the small independent businessman. The National Federation of Independent Business is the largest business organization of its kind in the world—representing some 298,000 firms. Our members come from every sector of the business community, and include retailing, wholesaling, manufacturing, the service trades, construction, transportation and the professions.

Most people are unaware of the impact of small business upon the nation's economy, and upon their lives. Today there are 5½ million small businesses in the country, located in every city and town throughout our land. They account for 95 percent of all the businesses in America, and provide jobs for 6 out of every 10 Americans engaged in private, non-agricultural occupations. Furthermore, small business contributes nearly 40 percent of America's Gross National Product. Because of the N.F.I.B.'s large membership, and because we represent such a cross section of small business, we believe we are well aware of the problems and the needs facing this important sector of American life.

Today, small business is caught in a real economic squeeze whereby it's difficult for it to remain competitive. There is definite need for enactment of tax reform legislation that would not only provide relief from a mountain of red-tape paperwork that has been fostered upon the independent businessman, but that would also provide a real tax break. We consider such legislation of utmost priority. Although numerous bills have been introduced in Congress that would do this, none have gone into hearings. This is most unfortunate because there were almost 10,000 small business failures in 1970 alone—up some 2,000 over 1969. Although the figures for last year are not complete, it appears that the number of failures will at least equal the 10,000 figure.

The 7 percent investment tax credit enacted recently by the Congress will help somewhat—and the relief of all small business from economic controls would also help. Certainly, the exemption of some small firms from price posting and controls is a constructive step, but we favor the lifting of controls from all small businesses. I say this not to suggest that small businessmen be allowed to bypass the law and hike the costs of goods and services at will, but because such a move will lift a financial burden from them that could—in the end—prove beneficial to the overall economy. Remember, it's an economic fact of life that the economic market, which is controlled by the large firms and the conglomerates, will keep the little guy in line as long as the controls are keeping the bigger ones in line. Exemption of all the small firms would free more IRS enforcement agents to make sure that the larger ones stay within the law.

Another area that will be of help to small business would be for rigid enforcement of anti-trust provisions in the law.

Borrowing money is always a problem for the smaller businessmen. And, in recent years the problem has grown more acute as the SBA direct loan program has been greatly deemphasized. In 1965, for example, direct loans totaled 7,313 for a sum in excess of 115 million dollars loaned. But in 1970, there were only 42 such loans for under 2 million dollars. Meanwhile, bank participation and government guaranteed loans increased to almost 11,000 totaling 588 million dollars at high interest rates.

We find such a trend to be detrimental to small business, and at the same time observe this to be a bonanza for the big financial institutions.

Small business faces other problems also. We regret to see the attention that is being focused on proposed National Health Insurance and an increase in the minimum wage in the Congress. This comes at a time when the small businessman cannot stand another increase. His costs would not be just the 25 percent most frequently mentioned, but would include increased payroll taxes and matching Social Security taxes. While it is true that these are deductible expenses at the year's end, this alone will not make up for curtailed cash flow which is so essential to business survival.

The Federation would like to see permanent committees with legislative authority established in both Houses of Congress. We have urged enactment of this legislation for a number of years, and feel it to be necessary. After all, agriculture, labor, and even aeronautics have committees with legislative authority. Surely small business, making up 95 percent of all businesses, should be granted its rightful place in the halls of Congress.

In-city migration is another concern of small business. During the last two decades, people have been leaving rural America to flock to the nation's cities. Today more than 70 percent of the population lives on 2 percent of the land. This has brought numerous problems to the cities. In order to more evenly distribute the population, we believe that tax incentives should be given for rural job development. The N.F.I.B. has pushed for such legislation, and will continue to do so because this way both our cities and rural areas would benefit.

Briefly, this is the state of the union as seen through the eyes of the small independent businessman.

STATEMENT OF LADONNA HARRIS, PRESIDENT, AMERICANS FOR INDIAN OPPORTUNITY AND MEMBER OF THE POLICY COUNCIL, NATIONAL WOMEN'S POLICY COUNCIL

In 1972 there still is a lack of understanding of anyone who looks different from the white male.

If your skin is brown and you speak Spanish, you are nearly twice as likely to be unemployed as anyone else.

If your skin is broken and you are a Native American, it means that your life expectancy is about twenty years less and your babies will die one and a half times more often than anyone else's in our country. Those who live will receive inferior education with little or no hope that their lives will be much better than those of their parents.

If you are Black your children have been bused past white schools for years without comment and now you hear that no one has ever believed in busing children on racial grounds. If you're an Indian in Washington state or in Alaska you know that your chil-

dren are still being bused to Oklahoma to segregated Indian schools.

If you are a woman, you have no chance to serve on the Supreme Court; you are still not covered by an Equal Rights Amendment; you have no legal right to the control of your own body; you are far more likely to become a victim of the welfare system; you are working at the same jobs men are for less pay; you have virtually no voice in decision making roles throughout the government. The head of your government vetoed the child care bill which would have made it possible to have quality care for your children if you must work or want to work outside your home.

He calls your efforts to make changes burlesque.

Yet you are 53% of the population and 5.4 million families are totally dependent on your earnings.

In spite of all that, 1971 has been a year of promise because of the people themselves. Things have begun to happen that no one dreamed possible. Women have begun to get together. They are crossing all of the artificial barriers—race, age, regionalism, even political party lines—in order to work together for the basic changes that must come in our society. We are beginning to form coalitions not only among ourselves but with people such as the Black Caucus, Youth Caucus and others.

Black people have brought about change for themselves.

Spanish speaking people—Chicanos, Puerto Ricans and Cubans—are crossing traditional barriers for their common good.

Native Americans are overcoming old tribal rivalries. Urban and reservation Indians have recognized the need to stand together to rewrite the history of this country and will no longer tolerate someone else telling them what to do and controlling their future.

Though politicians are not yet responsive or understanding, we who are different understand through our own experience that the power is in the people.

STATEMENT OF DENNIS HAYES

You can fool some of the people all of the time, and that's enough to earn a decent living. So for a couple of years now we've been bombarded with advertisements designed to fool us.

We have seen that the exhaust from a car burning Brand X gasoline looks sooty black when collected in a plastic balloon. The exhaust from a car burning Chevron with new F–310, on the other hand, is perfectly clear. Only later, after an F.C.C. investigation, do we learn that the first car is blowing up a balloon made of black plastic; the second, a balloon made of clear plastic.

We have seen paper companies photograph rivers 15 miles *upstream* from their mills to show how little they pollute. We have seen coal companies suggest that fishing is great in exhausted strip mines, and oil companies retort that fishing is even better under offshore oil derricks.

Worse, they are spending billions of dollars a year, co-opting our vocabulary. Today you can buy environmental rugs, environmental records, environmental gasoline, and environmental parlor games. Consequently, it's getting difficult for an activist to talk about the environment without feeling like a huckster. One might almost suspect a corporate plot to cheapen the movement—to so misuse and debase and profane its terminology as to render it laughable.

At the same time there has been a concerted effort to drive a wedge between poor people and working people on the one hand, and environmentalists on the other. The environment is consistently blamed for every tired, outmoded, unproductive factory they shut down. And the media cooperate with headlines like yesterday's gem: "Pollution or Poverty"—implying we must choose one or the other.

But big business really takes a back seat in all this to politicians. The billows of environmental rhetoric along the political circuits by men who clearly don't have any idea what they are talking about has served to cheapen a set of concepts which might have ennobled man and helped him build a better world. Nowhere is this more clearly seen than at the White House.

In his 1970 State of the Union message, President Nixon proclaimed the 1970's to be the environmental decade. After a half-hour of bombast, he suggested his one concrete proposal: a water pollution measure to help cities finance sewage plants. The proposal never went anywhere, and much of this last session of Congress was spent unsuccessfully trying to overcome White House opposition to a comprehensive water pollution bill.

With air pollution we were more successful. Aided by a 2-week thermal inversion which blanketed the East coast in smog, we passed a decent Clean Air Act. (It is worth noting, parenthetically, that it took the federal government ¾ of a century to notice that automobiles have exhaust pipes.) But the air bill hardly redounds to the President's credit. The legislation was opposed by the White House every step of the way—including a last-minute grandstand attempt by Elliott Richardson to gut it.

These were, of course, the motherhood and apple pie issues: air pollution and water pollution. On controversial environmental issues—the SST, the Alaskan Pipeline, offshore oil drilling, pesticides policy—the White House worked openly and energetically on the wrong side.

I don't mean to limit myself to the incumbent President; these failings tend to fall upon politicians generally. For Henry Jackson to run for the Presidency as an environmentalist is as ironic as for Procter and Gamble to label its new laundry detergent "revolutionary".

Part of the difference is semantic. We just don't mean the same thing when we say "environment."

When they say environment, they mean filters on smokestacks and trout fishing in the mountains.

When we say environment, we're talking about the filth, the disease, the ugliness which permeates the lives of the 4.5 million whites and 3.1 million blacks condemned to urban poverty. The E.P.A. Task Force on the Inner City Environment, completed last September, apparently unearthed such shocking statistics that the agency has been refusing for 4 months to even release it.

When we say environment, we're talking about the noise, the 500 new untested chemicals a year, the dust, and the radiation that 56 million working Americans are exposed to for 40 hours each week.

We're talking about the environment of S.E. Asia, where our herbicides have turned fertile plains into ruin, where our explosives have riddled the countryside into a moonscape, and where our technological excellence still daily melts childrens chins into their chests in a sterile, high-altitude barbarity for worse that the crimes of My Lai.

And we're talking about the explosive disparity between rich people and poor people, and the even more explosive disparity between rich countries and poor countries.

Viewed from this perspective, the first two years of the Environmental Decade were years of minuscule, piecemeal, "bandaid" victories, and of staggering, comprehensive losses. The time is long since past to stop all this foolishness about the environment bringing everyone together. There are major villians in this scenario, and it will no longer suffice to say that everyone is a polluter. If there is any single lesson the people have learned these last couple years, it's that litter bags aren't enough.

In the last election, environmentalists helped run 7 of a "dirty dozen" congressmen out of office. We've gone to court so many times we've created a brand new academic discipline; environmental law. We've inserted ourselves into stock proxy fights, and we've made some fledgling attempts at economic boycotts.

Working together with diverse people, like our brothers and sisters in this room, we're going to start turning this country around.

COMMUNICATIONS FROM NICHOLAS JOHNSON

Reforming communications policy is central to making any change in this country.

No problem—the war, the treatment of blacks and women, environmental pollution—can be resolved without a fully functioning communications system.

When the communications system is working properly people at least have a fighting chance to solve other problems freely.

No aspect of the corporate control and stifling of our nation's free spirit is more serious and far reaching than the big business control of the communications system.

We have most of the laws necessary to right this imbalance. The principal solution is to be found in men with the will to enforce them.

AT&T must be tamed. We might consider breaking AT&T into manageable units and forcing it to participate in the free private enterprise system, nationalized, or regulated effectively—none of which the Federal Communications Commission seems inclined to do. Unexamined rate hikes must stop. We must insure that the small user does not bear the burden of special rates for Bell's big business users.

Public participation in the broadcast license renewal process should be encouraged—as an appropriate way to return governmental regulation from Washington to local communities—rather than further limited by legislation.

Effective regulation of broadcast advertising should be provided by the FCC. Advertising should be informative rather than emotionally based; time should be made available for "counter advertising" on a regular basis.

Cable television should be made available in the nation's largest cities on an "access channel" basis—rather than limited to the smallest markets.

The Public Broadcasting Corporation should be provided insulated funding at a $500 million a year level.

At least 1% of the FCC's budget (as with the budgets of all other regulatory commissions) should be made available to public interest law firms, and others, seeking to participate in the adversary process on the public's behalf.

Every American citizen should be able to telephone any public official in Washington without cost to himself. Such a central, cost-free number in AT&T's 800 series—say 800 plus Freedom (373–3366)—would cost the government a fraction of the current Defense Department telephone bill.

Wiretapping and bugging—now fully sanctioned by AT&T and the government under many conditions—should be halted immediately.

White House interference with print and broadcast press freedom, and with the fact-gathering and reporting process (such as the Bureau of Labor Statistics and the Surgeon General's Television Violence report) should be opposed as inconsistent with the need of a free people to be accurately informed.

These are but a few of the reforms of the communications process and policy that are necessary if the people of this country are to be permitted and encouraged to exercise the freedoms that our basic charters originally granted.

STATEMENT OF JOHN KERRY

Most Americans have been led to believe the war in Vietnam is over. The Administration has played to our frustration and the media, in powerful echo, tells America we are on our way towards peace simply because the President says it is so.

But in the midst of all the talk about "winding down the war" and about "protective reaction strikes," we can see the hard reality. It has been said before. Evidently, it must be said again and again and again.

The war in Vietnam is far from over.

Yes, American troops are coming home. And yes, the President can claim credit for that. And yes, in the light of what we had before, that is an improvement. But that is not enough and deep inside every American should know that is not enough.

Where troops have come out, bombs and sensor devices have gone in to replace them. The My Lais once accountable from the ground are now My Lais unaccountable from the air. The war has become a technological bonanza which the United States believes it can continue as long as the casualty lists say "only"—followed by a small enough digit.

We here today, and thousands across the country, are left asking if as a nation we are so dulled emotionally that our sense of national outrage is satisfied with half of what could and should be done.

This war could have ended months ago. The killing, at very least the killing for which the United States is responsible, could end tomorrow.

No talk of upholding democracy in the face of South Vietnamese dictatorship, no talk of treaty commitments which long ago have proven doubtful, no talk of stands against aggression which all know to be false, in fact there is not one word that can excuse the loss of one more life in Southeast Asia.

What was a mistake one year ago, or one month ago, or one day ago is a mistake today and one simply does not send men to kill or be killed for a mistake.

The South Vietnamese army is now the fourth largest Army in the world—following Russia, China and ourselves. If they are not ready to fight now, after twenty-five years of training, they will never be ready.

In the final analysis our Vietnam policy under Richard Nixon has not changed at all. In 1954 we were committed to a non-communist regime in that country. Today, 18 years later, our goal is the same, a goal which ignores that all those years of struggle have been an effort by people in their own country to gain representation. That is democracy. That is supposedly what we stand for.

But this administration ignores what we stand for and we remain committed, to the very goal we have found impossible to guarantee which is why we are withdrawing in the first place. That must be both the strangest and cruelest dicotomy in world politics today.

Respected sources today confirm what many have been saying for a long time—America will sometime in the future offer withdrawal in return for the prisoners. We can only ask in desperation, why if we can do it in a month or so can we not do it now. The people of America are due more respect than this Administration seems willing to pay and perhaps our only hope is that history will judge harshly those who use the lives of American sons and the people of other nations to suit their re-election needs.

Such callousness is not new however. It is, sadly, the state of the union. We have been lied to openly by this and other administrations. Defense budgets grow while we talk of success at the SALT talks and a "Generation of peace." Politicians exploit fears of Communism where experts know there is no monolithic movement.

At some point many of our leaders have gotten it into their heads that it is all right to kick people around and get away with it. So it is that we have created not just a Vietnam those thousands of miles away, but a hundred of Vietnams here at home—in Watts and Harlem, Kent State and Attica—in cities and communities all across the country.

So it is that veterans can die in VA hospitals for lack of adequate care; so it is that veterans make up the largest single unemployed bloc in the nation; so it is we find 15,000 to 25,000 veterans addicts in New York City and 6,000 to 10,000 in Boston. So it is this country sat by while Mexican Americans and Indians, 27% of the population of New Mexico made up 67% of our Vietnam casualties from that State or while blacks provided the largest percentage of casualties for two consecutive years. So it is that 234 Congressmen's sons were eligible to serve while half of those were deferred, 26 saw uniform in Vietnam and one was wounded.

So it is on an international scale that we side with status-quo, unrepresentative regimes—in Greece, Pakistan, Vietnam, South America.

It is clear that our leaders have lost sight of what this country is and wants to be. Today we are affirming however, that though men of small mind and less character may project themselves onto their fellow citizens and suggest that an America that admits its mistakes will turn into a craven, hollow place, we will continue this struggle. Because we know this country is bigger than they are and it's bigger than us.

STATEMENT BY RALPH NADER

My specific comments on President Nixon's State of the Union address will be restricted to the areas of consumer protection, economic concentration and the property tax issue.

Consumer protection—The President continued the Administration's past policy of ignoring the urgency of consumer exploitation and frauds which sap billions of dollars from the income of Americans yet giving verbal service to consumerism as an ideal. For example, the President has refused to support: adequate consumer class action legislation (a self-help, non-bureaucratic, inexpensive tool for consumer justice in the courts); adequate powers to the Federal Trade Commission; and creation of an *independent* product safety agency supported by many members of Congress. He sees no need for basic insurance reform, despite the widespread revulsion among policyholders everywhere, except to exhort the states to act where the federal government should lead. He has not exerted any leadership in obtaining necessary appropriations for regulatory agencies to perform their consumer protection mission. Nor has he began to recognize the gravity of 'crime in the suites' by stepping up enforcement against corporate violators of consumer laws—such as the meat and poultry acts, the Food, Drug and Cosmetic Act, the auto and tire safety acts, the gas pipeline safety act, the flammable fabrics act, the toy safety act and the radiation control act—to name a few of the laws so badly neglected.

Perhaps most revealing is the President's continued opposition to the passage of legislation establishing an adequate consumer advocacy agency to monitor, challenge and intervene before other federal regulatory agencies to defend and further the consumer interest in economic, health and safety matters. Once totally opposed to the idea, the administration shifted in mid-1971, when it could not even count on Congressional Republicans for support, and supported a weak version of the proposal which passed the House and is now before the Senate. The consumer advocacy agency does not regulate anything; it simply redresses the balance of power somewhat against the special interests and makes government more responsive to the laws and the people.

It is quite clear that the vital issues of real income values, health and safety which are embodied in a vigorous program of consumer protection do not absorb much of the President's time or energy. Without question, professional football has taken ten times or more of the President's time and enthusiasm than has the mission of consumer protection. Paul Warfield can command the President's attention, but millions of harmed or cheated consumers cannot.

Economic Concentration—The enormous power of large corporations over the economy which deprives the consumer of viable competition and innovation and injects institutionalized inflationary forces was ignored by the President. At a time when some of his major economic advisers (Peterson, Stans, Flanigan) are urging a relaxation of the anti-trust laws and even less enforcement, and at the time when even conservatives of the Hruska school are beginning to wonder whether the choice is increasingly one of controls or competition, the President could have reassured the nation that economic competition would be a high priority for the Administration. Furthermore, a worsening imbalance in the distribution of income and wealth in this country, despite a burgeoning gross national product, received no attention in the address. The concentration of land ownership and the relentless expansion of corporation-conglomerate-type farming which threatens to drive out the family farm and introduce contaminating and inefficiency factors faster into the subsidized farm economy were ignored.

Property Tax—The President is trying to capitalize on the widespread dissatisfaction with the property tax and propose a national consumer tax as the remedy. He ignored entirely the major inequities of the property tax which is the underpayment of the tax by large industrial, commercial, land and mineral companies. At least $7 billion a year could be collected if these large property holders were required to simply pay their fair share according to prevailing assessment standards. Instead, he proposes to alleviate a part of the property tax burden by burdening the same people with a hidden sales or consumer tax that is regressive on the poor as well who don't have property to pay taxes on in the first place. Much that is wrong with the property tax can be remedied with professional assessment practices and equitable collection of the tax from the steel, coal, oil, timber, and large urban building owners. Senator Muskie has been promising field hearings around the country on the property tax by his intergovernmental relations subcommittee. The time has come to deliver on that promise.

The expectations heaped on any State of the Union address are always greater than can be realistically met by any President. Yet there are minimum standards which can be met by any President. One of these standards is an earnest attempt to consider the results of unjust power on people generally or afflicted minorities and to invoke the sinews of citizen action to overcome these results with the help of democratic government. It is regrettable that the President did not meet this standard, in part because his audience was first the Congress—a fact which helps shape the content of the message—and in part because our President continues to avoid his obligation to see that those who are victimized in our society must have first claim on the Presidential powers to reshape the alignment of power and allocation of resources in their favor for a truly meaningful democracy of change.

STATEMENT OF THE GULFCOAST PULPWOOD ASSOCIATION

There are ¾ of a million black and white pulpwood cutters in the South today, most of whom have been left hungry and unable

to change their economic and political lives amid a multi-billion dollar industry. Although white and black workers have not been organized in the past, we are now moving toward united participation in the political and economic life of the South. Many blacks and white cutters have only in the past 6 years began to vote and are now beginning to unite and form a new political and social base of working people in the south.

The Pulp and Paper industry and the economic lives of the woodcutters in the South have long been controlled by the large companies through a dealer system which separates the cutter from the company and insulates the company from its responsibility to provide basic workman's benefits to the cutters. The woodcutters must cut where the Company tells him to cut. He delivers to a Company yard in most cases. The wood he brings in is weighed on Company scales. He receives a Company ticket for the amount of wood he has brought in, and he takes that ticket off the company's property to the wood dealers office to be paid. Yet the companies maintain that they don't deal with woodcutters, but that the cutters are "independent businessmen." This system deprives the woodcutters of their rights as working people, to:

Workmen's Compensation
Minimum Wage Scale
Insurance
Social Security
Safe working Conditions
The right to bargain collectively

This system makes millions for the Companies while the woodcutters live on foodstamps or government commodities. The paper companies brag that they are one of the only businesses that are not being subsidized by the government, but the woodcutters who are unable to make a decent wage, must depend on taxpayers' money to eat from. The working people in the South are tired of this system and are moving to change it.

The Gulfcoast Pulpwood Association is such a movement in the South. The GPA has approximately 8,000 members. It is an organization of woodcutters, 60% black—40% white, who have united to improve their own political and economic conditions in the South.

In order to improve these conditions, members of the GPA entered into a strike against 5 major paper companies in the South that lasted for 3½ months. Although we were not legally recognized as a union by the companies, we won settlements which raised the price of wood and gave the woodcutters better weight factors.

The core of the Association's strength and the success of the strike has been found in the unity of its white and black members who resisted all efforts of the companies, news media and politicians to split us along racial lines. In resisting the race baiting and the red baiting that accompanied it, the black and white woodcutters were brought closer together in Mississippi and overcame the barriers that had always stopped people in the South from organizing.

Results from this new unity are just beginning to be felt—many white cutters voted for Charles Evers in the last election after Mayor Evers supported the woodcutters. Workers in other industries who have seen what a grass roots movement of people can do are beginning to organize and are asking the Association for help. Groups of poor people are beginning to demand fair treatment at the Food Stamp and Commodity Groceries Office. Now the woodcutters are beginning to attend workshops and meetings to develop their own leadership and show the other workers that they have an important voice in the political and economic life in the South.

People say that things will never be the same after the Gulfcoast Pulpwood Association strike of '71. And as we unite and grow, we are reaching out to touch and unite with other people's groups across the country and to bring what we have learned in the Association to a national level—that together we have power.

STUDENT STATE OF THE UNION ADDRESS, MARGERY TABANKIN, PRESIDENT, USNSA

Mr. Nixon blithely assumes the campuses are quiet because students have returned to the pursuit of learning like the docile sheep he thinks they are. I think he is misreading the signs: that the silence is not the good-natured passivity he would lead us to believe, but the ominous silence of young people who have repeatedly witnessed the defeat of even their most minimal visions of a just society. Politicians exhort youth to participate in the political process, and columnists wonder at their failure to so much as register to vote.

I don't think anybody should be surprised at their indifference. Why organize to elect people to a Congress that can take a piece of legislation like the Equal Rights Amendment, clearly designed to secure women's rights under the law, and amend it so that in fact it legalizes discrimination against women? Why organize to elect people to a Congress that can take a bill like the Williams legislation, clearly designed to give enforcement powers to the Equal Employment Opportunity Commission in defending ethnic minorities' right to work, and strip it of its "cease and desist provisions? Why organize to elect a President if a President can publicly declare his intention to ignore a piece of legislation with the status of law like the Mansfield amendment, and go unchecked? Why organize to elect a President, if a President can so blatantly disregard the basic human survival needs of our society that he vetoes a Child Development Bill because it is too costly and steals that thunder from his own inadequate initiatives, and yet support a space shuttle that costs more than twice as much to implement? Why organize to support a system in which a Department of the Interior can chauvinistically oppose legislation to protect the California coastline from the known ecological hazards of oil exploration and development, and yet think it fulfills its duty to protect the environment by fining major oil companies a trifling $500 apiece for wrecking the ecology of that coastline with oil spills? Why organize to support a system that freezes wages and permits tuitions to rise, escalating the cost of a college education that means virtually nothing in a depressed labor market, judging from the numbers of unemployed graduates? Why organize to support a government that purports to "Vietnamize" its own aggression, adding more victims to the 3 million Vietnamese dead, and changing nothing but the color of the corpses in the pursuit of its own incredibly racist foreign policy? Why indeed?

There is more than a little poignancy in a recent cartoon which showed two imprisoned draft resisters looking at the headlines of Nixon's intervention in the Calley case, and one saying to the other ironically: "I should have gone into killing Vietnamese civilians instead of the Resistance."

The gap between the vision and reality grows wider every day, and young people know too well what the reality is: if you're rich and powerful, you can bend the political system to your whim. If you're poor and disenfranchised, it can bend you till you break. Nobody wonders at the unresponsiveness of the political system, only at the unresponsiveness of young people to it.

Mr. Nixon's major national priority becomes increasingly clear: his own reelection. His single-minded pursuit of this goal dictates every statement and times every action. Unfortunately, the timetable of his election strategy seems to be the only kind of timetable he is capable of constructing, despite his promises in 1968. He will go to China before he will go to Paris and seriously discuss the only substantive resolutions advanced thus far to end the Vietnam War: the PRG's Seven Point Peace Plan. In fact, he will go anywhere in the world, so long as he doesn't have to go in a schoolbus. He will demand some $90 billion in military appropriations, much of it to support governments without popular base abroad, because he thinks he has all the time in the world to reconcile the people of America to his own increasingly unpopular government at home. He will veto a Child Development Bill, because it features community control and bypasses the state governments, and clearly bypassing a governor has no place in an election timetable. He will force mothers to work for less than the minimum wage, and force children into wholly inadequate custodial services under H.R. 1, because he clearly feels no pressure to resolve the problems of poverty. But the timetable of a nation's problems is not the timetable of one man's self-interest, and the silence of youth is not to be interpreted as acquiescence while Richard Nixon holds his breath and waits for November. Because the campuses are not really all that quiet, and students are certainly not all that patient.

For one thing, 1019 campuses experienced some kind of protest activity in 1970–1971, according to the *Chronicle of Higher Education*. It's just that the media doesn't find student protest newsworthy anymore, so thoroughly have the American people been coopted by the double-talk of the Administration; in fact, the media finds student protest in America almost as *un*-newsworthy as it finds the harassment, torture and death of student protesters in South Vietnam at the hands of the US-supported Thieu regime.

For another, many students have registered to vote and are using the registration process as a tool for community organizing, and thousands of students have abandoned their "ivory tower," campus-oriented politics to move into the towns and cities and join community people in the struggle to wrest control of their resources and institutions out of the insensitive hands of bureaucrats and petty politicians. Because they know what a just society would look like: they know that assuring every family of four a guaranteed minimum annual income of $6500 is the humane response to poverty, and not the appropriation of $30 billion more for the war.

They know that good and inexpensive mass transit systems are more important than transit systems to the stars. They know that securing the right of every individual who chooses to a free higher education, and expanding the minimum wage to all working persons, are more appropriate responses to raising the standard of living than freezing school breakfast program funds and the repressive forced work provisions of FAP.

They know that a just society is not one where women must win every concession by dragging their cause through the courts at extreme personal expense, not one where children become political footballs in battles over school lunch programs and busing projects, not one where blacks and chicanos and native Americans are denied their basic human rights—to food, employment, housing and education, not one where returning veterans are ignored by the government they risked their lives to serve, not one where Atticas must happen before the society at large recognizes the corruption and degradation of our penal system, not one where a generation of political exiles is created because of their opposition to a thoroughly unpopular war, not one where grand juries harass the citizenry and invade their privacy on sheer whim.

They know that a just society is one in which all its people have free and equal access to the governmental processes that rule

their lives, and the resources that determine the quality of their lives. And they are beginning to move on it, quietly perhaps, but with profound conviction and even more profound outrage at the inequities they perceive. Richard Nixon doesn't see it, because Richard Nixon wouldn't know a movement for social justice if he tripped over it. The media doesn't report it, because the media is not even influenced, much less controlled, by the disenfranchised young. But we see, and we know, that young people are going to organize to achieve their vision of justice—because, after all, the dream dies hard—in the voting booths of America when they can, in the streets of America when they must. And I say to Mr. Nixon: the silence you hear is not the stillness of passivity. It is the lull before the storm.

STATEMENT BY DR. GEORGE A. WILEY, EXECUTIVE DIRECTOR OF THE NATIONAL WELFARE RIGHTS ORGANIZATION

Our Nation faces serious problems in the Seventies: persistent racism, perpetual poverty, mounting unemployment, a precarious economy, unchecked inflation, a deteriorating environment, and a costly immoral and increasingly automated war.

The legacy of failure to change these conditions falls most heavily on our children. Children suffer the ravages of hunger and malnutrition when their parents' incomes are inadequate to meet basic needs. Children innocently suffer the atrocities of war. Children suffer the brutality of racism. Children are the inheritors of an exploited and polluted environment.

The National Welfare Rights Organization will devote itself in 1972 to improve and enrich the lot of children. We call upon the Nation to examine all of its policies and programs for their impact on children.

We challenge the Administration's veto of developmental child care legislation in favor of a custodial care program as advocated in Nixon's so-called Family Assistance Plan (FAP HR–1).

We condemn the Administration's refusal to spend money on child feeding programs and the punitive and restrictive changes in federal food programs made by the Congress and the Administration.

We condemn the Administration's waivers of sections of the Social Security Act for large scale tests of forced work programs whose net impact is to depress wages for poor workers and reduce grants to welfare families. These punitive programs place increased hardship on poor children.

We condemn the Talmadge Amendment, railroaded through the Congress in two days and enthusiastically signed by President Nixon. This Amendment seeks to create a permanent class of poor people required to do menial work for sub welfare wages.

Most of all, we condemn and challenge H.R. 1, which embodies all of these repressive principles in Nixon's Family Assistance Plan. H.R. 1 has masqueraded as welfare reform. Let us understand it for what it is—a multi-headed repression falling most heavily on the children of the poor.

Let us unite to fight H.R. 1. Let us defeat repression against children and begin a program to preserve and protect our Nation's most precious natural resources: our children.

Let us begin by adopting a program for guaranteed adequate income for all Americans, setting a floor of $6,500 for a family of four, and thereby ensuring that no child will be hungry or lack the other basic necessities of clothing, shelter or medical care. Let us expand child feeding programs to all schools and other institutions.

Let us adopt an adequate child care program which provides for comprehensive, creative and developmental services focused on the real needs of the child locally controlled by parents, family centered, and available on a voluntary basis to all children. Let us not legislate a separate class of poor children who are abandoned in custodial care as a means of coercing their mothers to work.

Let us move to put an end to an educational system that continues to fail to bring opportunities to the children of the poor that more and more is being used to control poor children's behavior often through the abuse of drugs, such as ritalin.

Let us end this system in favor of one that can be a vehicle for bringing children out of poverty rather than entrenching them further into a poverty of spirit as well as of being. And, in doing this, let us not move to tax the poor for the cost of this education through value laden or other regressive taxes.

Let us end the war economy and war psychosis which is so destructive to children and to our whole society.

Let us embark on a program of assuring adequate housing for all Americans so that our children may grow up in a healthy environment.

Let us publicly show the value we place in our children through the enactment of substantial income and other tax changes to directly benefit children.

Let us end childhood disease and premature deaths which run rampant, especially among the nation's poor. Let us bring this nation's infant mortality rate as close to zero as possible through a universal and comprehensive physical and mental health program which emphasizes a shift from crisis to preventive care.

FISHERY POLICY—RESOLUTIONS OF NATIONAL FEDERATION OF FISHERMEN

Mr. STEVENS. Mr. President, on July 10 and 11 last year, in San Francisco, Calif., the National Federation of Fishermen adopted certain resolutions concerning the laws of the sea as they relate to fishery policy. These relate to coastal fish species, anadromous fish species, and high seas species.

The first resolution concerning coastal fish species indicates that coastal nations shall have the ownership over all such fish adjacent thereto. Only when such fish are not harvested by the coastal nation shall provisions be made for harvesting by other nations subject to control and licensing by the coastal nation.

The second resolution concerning anadromous fish species indicates that these shall be the property of the coastal state of origin. That nation must approve harvesting of such fish by any other nation. All nations must work out rules with due regard to conservation and the rights of each nation to its proper share.

The third resolution concerning high seas fish species including all species of fish not covered by the previous two resolutions, indicates that these fish are not subject to ownership and control by the coastal states. Their conservation and management is the responsibility of international control, including both of the harvesting countries and countries whose coast border the distribution of such fish.

I ask unanimous consent that the synopsis be printed in the RECORD.

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

LAW OF SEA FISHERY POLICY ADOPTED AT NATIONAL FEDERATION OF FISHERMEN CONFERENCE

I. COASTAL SPECIES

Coastal nations shall have the ownership of all the fish and shellfish resources which live on or above, or are dependent upon the Continental Shelf and slope adjacent to the coastal nation and/or the waters above the shelf and slope for reproduction and/or survival during the major part of their life.

When stocks of fish are underharvested by a coastal nation to which they belong, provisions shall be made for harvesting by other nations subject to licensing and control by the coastal nation.

II. ANADROMOUS SPECIES

Anadromous fish shall be the property of the coastal nation of origin. No nation shall harvest anadromous species of fish without express consent and approval of country of origin. Where anadromous fish is habitating and is harvestable in territorial waters of a country other than the country of origin, it shall be mandatory upon the nations involved to work out harvesting rules consistent with conservation with due regard to the rights of each nation to its proper share of the allowable catch.

III. HIGH SEAS SPECIES

All species of fish not included in paragraphs I and II, and in particular, fish of oceanic origin and habitat, shall not be subject to ownership and control by the coastal nation. The conservation and management of such species shall be the responsibility of multinational control to be exercised jointly by the harvesting countries and by countries whose coast borders the distribution of such fish stocks.

CARL HAYDEN

Mr. HARTKE. Mr. President, few men in the history of the Nation have been as devoted a servant to it and its people as Carl Hayden. His desire to improve the lives of Americans persisted throughout his entire life. His phenomenal record in years of service is overshadowed only by the immense impact he had on the development of our country during those years. A tireless worker, Carl Hayden lent his whole person to those activities he undertook and those whose lives he touched will not soon forget his efforts.

Carl Hayden served in the Senate longer than any man—42 years, and prefaced this with eight terms in the House. Although he worked diligently to obtain measures beneficial to the people of Arizona whom he represented, every State in the Union profited by his activities. He has often been termed the third Senator of every State, and this describes his broad-gaged interests perfectly.

For the length of his public life, Carl Hayden avoided the spotlight, realizing that a ceaseless devotion to his work would bring him the respect of his colleagues. To say that it has would, indeed, be an understatement.

I join with Senators in expressing my deep sorrow at the passing of such a great American. In the more than 50 years that Carl Hayden served his country, we have made great technological and social advances. We were most fortunate to have a man such as Carl Hayden give us constant guidance throughout those years. But equally important, the perseverance he displayed will serve as a model for those who follow.

IN SUPPORT OF BANGLADESH

Mr. HUMPHREY. Mr. President, on January 4, the Association of Baptists for World Evangelism wrote the President, urging him to extend diplomatic recognition to Bangladesh, and begin economic and humanitarian aid programs in that country. The association was critical of the administration's approach to the entire crisis in South Asia, especially the "tilt" toward Pakistan, as are we all. Rather than dwell on our unfortunate past policies, the association has acted responsibly by pressing the President to change our policies and begin anew. Mr. President, I ask unanimous consent that the association's letter be printed in the RECORD.

Several Members of the Senate have urged the President to do the same. I have submitted Senate Concurrent Resolution 58, calling for U.S. recognition of Bangladesh and India. In the past, I have asked the President to take the lead, not only extending diplomatic recognition, but also by proposing a seat for Bangladesh in the United Nations.

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

ASSOCIATION OF BAPTISTS FOR WORLD EVANGELISM,
Chittagong District, Bangladesh, January 4, 1972.

HON. RICHARD M. NIXON
President of the United States,
Washington, D.C.

DEAR MR. PRESIDENT:

THE DIPLOMATIC RECOGNITION OF BANGLADESH

This letter comes to you from 21 American missionaries—the largest single group working in Bangla Desh. Our organization has worked in East Pakistan since 1957. All of us left our homes in the United States, the land of our birth, to assist the people of this land. We are committed to the welfare of the Bengali people.

Included in our group are 2 medical doctors, 8 nurses, 1 laboratory technologist, 1 physical therapy technician, 5 ordained Christian ministers and 2 school teachers. Several of us have lived in this country for more than 10 years. The majority of us have worked here for periods exceeding 4 years. All of us speak Bengali. We live and work in Chittagong District. Each day we meet hundreds of Bengalis—from primitive tribal villagers to government officials. Since we have been in East Pakistan during the present difficulties, we feel that our observations are worthy of your attention. The statements herein reflect our personal observations and opinions and are not necessarily a statement of mission policy.

What we have seen: One year ago an election was held in East Pakistan which electrified the entire nation. Virtually the entire province grouped solidly behind Sheik Mujibur Rahman and supported his program for more regional autonomy. At that time the majority of the people had no interest in secession. They were interested in getting a "fair deal" from West Pakistan. Up to this point, financial, military and political reins were held in West Pakistan by West Pakistanis. Frankly, the Bengalis were tired of it. Doubtless this is what caused them to throw their weight solidly behind the Sheik. The ruling interests of West Pakistan, finding it intolerable to sit in a National Assembly dominated by Bengalis, embarked on a series of delaying maneuvers. Ultimately, President Yahya Khan started "negotiations" with Mujibur Rahman which were only further delaying tactics designed to allow the West Pakistan Army to swing into fighting position.

On March 25, 1971, that day of infamy, the West Pakistan military machine struck. Bengali members of the Pakistan Army were lined up on cantonment parade grounds and machine gunned to death. We have talked to some who escaped. Barracks filled with Bengali troops and police were shot as they slept. We talked to those who were there. Captured Bengali troops were summarily executed. A Pakistan Army major told us that he personally ordered the execution of several hundred captured Bengali troops.

After subduing the Bengali military and police force, the Pakistan Army embarked on a program of terrorism and destruction in the villages. As the military machine advanced, the Bengali people fled in terror. Entire villages were burned to the ground. Some villages were cordoned off by troops and the villagers systematically slaughtered. Other villages had a death quota to fill. An Army officer admitted that he had seen the order to kill 15 people from a nearby village. Intelligent young men—university students, lawyers and doctors were a special target. Young girls were taken from their families, raped and murdered. Still others were taken to the cantonments and repeatedly ravished by the troops. An officer in Dacca admitted to a foreigner that in Dacca cantonment alone, 500 girls were kept for immoral purposes. Women and children were shot and hacked to death without mercy. Babies were butchered before the eyes of crazed mothers. We have seen with our own eyes the bodies of those who were dismembered before stuffed into shallow graves. One of our missionaries personally dug from such a grave the shoes and bones of a six year girl.

Throughout the course of this disaster, the voice of President Yahya Khan could be heard calling for the refugees to return to their homes. You, Mr. President, and the rest of the world might well have asked, "What homes?" Thousands of homes and villages were razed to the ground as military terrorism set the pace for further destruction in the villages. The Pakistan Army looted, burned and raped its way across the country, enlisting the help of unscrupulous Muslims. Propaganda, stating that India and the Hindus were responsible for the war, gave rise to a Hindu/Muslim struggle. Bands of armed Muslim thugs terrorized and put to flight their innocent Hindu neighbors. In our area alone, 87 Hindu homes were burned; personal property looted; cattle and fields confiscated. Similar scenes were re-enacted throughout the country. How could the world stand by unmoved while an entire nation was being raped and devastated?

It is our opinion, based on personal experience, that the Bengali people were not to blame. The rebellion in East Pakistan after March 25th was a deep-seated Bengali effort to gain their freedom. This movement was supported by the vast majority of people in all stratas of society. Hindus, Muslims, Christians and others worked shoulder to shoulder to free the land of hateful oppression. While we endeavored to remain neutral, it was impossible to view the wholesale slaughter of the Bengali people and remain loyal to Pakistan at the same time.

As the Indian Army advanced on several fronts and the Mukti Bahini (Freedom Fighters) stepped up their guerrilla activities, it was obvious to the Pakistan Army that defeat was imminent. Ultimately Pakistan called for a cease fire and surrendered. There is good evidence that up to the very moment of surrender the Pakistan troops were busy killing their prisoners. As the Indian Army advanced, the freshly slain bodies of many educated young men were found in and around Dacca and Chittagong.

Since the surrender of the Pakistan troops we have seen in this nation a change of spirit and heart which beggars description. Houses which were filled with worry and heartache are now literally filled with joy and laughter. The country resounds to the cry, "Joi Bangla" (victory for Bengal). People are streaming back from their jungle hiding places to be reunited with their families. One of the most obvious changes is the attitude towards the occupying Indian forces. When the Pakistan forces were in the country they could not move about unarmed for fear of the people. The Bengali people were afraid to move outside, lest they be shot or molested. Remember that these were people of the same country. The Indian troops, however, move about the bazaars unarmed, followed by large groups of laughing children and smiling villagers. They obviously look on the Indian Army as the Savior of their nation.

What we believe: We initially agreed with our government's foreign policy decision to work out a political settlement through negotiation. For over eight months, however, the United States pursued discussions with the Pakistan government without meaningful progress. Meanwhile East Pakistan came close to annihilation at the hands of West Pakistan. We feel that events of the past months should have influenced the United States to take a different approach than mere dialogue. We want to give you our reasons for this opinion.

We realize that the present U.S. policy in favor of a united Pakistan is within the legal framework of the United Nations Charter regarding the integrity of a member nation. However, we feel that there is a higher morality than the U.N. Charter that the United States should follow. It is the morality of Human Rights set down for mankind in our Declaration of Independence. The first four paragraphs of our Declaration of Independence very accurately express the case for the oppressed people of East Pakistan. We quote from paragraph four:

". . . that whenever any Form of Government becomes destructive to these Ends (the Rights of Life, Liberty and the Pursuit of Happiness), it is the Right of the People to alter or abolish it, and to institute new Government . . ."

Mr. President, if this assertion of human rights was moral for us in 1776, why do we not consider it moral for the Bengals in 1971? Why was it moral for France to help us win our independence in 1776, yet immoral for India to help Bangla Desh in 1971?

Because of the results of the 1970 election and the subsequent tragic events in East Pakistan, the Bengalis have, in fact, more of a case for our Declaration of Independence than our forefathers had. When we allow the legal framework of an organization to take precedence over the basic morality of human rights we reject the very principles upon which our own nation was so securely founded. If we fail to recognize the right of the Bengali people to establish a free and independent Bangla Desh, we must also reject the statement of Human Rights which was the basis of our own great war for freedom from oppression.

What we ask you to do: In view of the above discussion, we ask you to do the following:

1. *Immediately recognize the nation of Bangla Desh.* This country is a physical reality. Let America, the nation of freedom, be in the vanguard of those that recognize Bangla Desh, a nation desiring freedom. We feel that it is important for the U.S. to recognize Bangla Desh *before* the communist bloc nations do so.

2. *Continue aid to Bangla Desh.* If Bangla

Desh is to survive, she will need much medical and humanitarian aid just to restore the people to normalcy. This should not only be done through the U.N. but through private American relief and humanitarian agencies, as well.

3. *Institute economic aid to Bangla Desh.* Aid will be needed to help rebuild, develop and stabilize Bangla Desh. Economic aid programs should be instituted and implemented by the U.S. without delay.

What we pray: Mr. President, be assured that we pray for you most fervently. These are tumultuous days and we pray that God will give you the wisdom to lead our nation, founded under God, in the paths of truth and righteousness.

We pray, too, for our nation, that she may prosper in every way, spiritually, materially, and as a leader among the nations of the world.

We also pray for the people of Bangla Desh. We have devoted our lives to living with them, working with them, and helping them. We pray that the freedom they seek may soon become a reality.

Sincerely yours,

Mr. Robert D. Adolph, Wheaton, Ill., Rev. Melvin C. Beals, Pinole, Calif., Joseph L. DeCook, M.D., Holland, Mich., Mrs. Barbara Adolph, Wheaton, Ill., Mrs. Marjorie Beals, Pinole, Calif., Mrs. Joyce DeCook, Holland, Mich.

Rev. Lawrence D. Golin, Grand Rapids, Mich., Donn W. Ketcham, M.D., Wyoming, Mich., Rev. David J. Walsh, McMillan, Mich., Miss Mary L. Brownell, Rochester, N.Y., Miss Gwendolyn M. Geens, Nunda, N.Y., Miss Ernajean Lockerbie, Stony Brook, N.Y., Miss Linda L. Short, Arlington, Va., Miss Jean L. Weld, Minneapolis, Minn.

Mrs. Jane Golin, Philadelphia, Pa., Mrs. Pauline Ketcham, Wyoming, Mich., Mrs. Eleanor Walsh, McMillan, Mich., Miss Rebecca A. Davey, Bothell, Wash., Miss Shirley J. Harkness, McMillan, Mich., Rev. Reid P. Minich, Mayville, N.Y., Miss Lynn A. Silvernale, Millerton, N.Y.

RULES OF PROCEDURE OF COMMITTEE ON LABOR AND PUBLIC WELFARE

Mr. WILLIAMS. Mr. President, as required by section 133B of the Legislative Reorganization Act of 1946, as amended, I ask unanimous consent to have printed in the RECORD the Rules of Procedure of the Committee on Labor and Public Welfare.

There being no objection, the rules of procedure were ordered to be printed in the RECORD, as follows:

SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE, HARRISON A. WILLIAMS, JR., CHAIRMAN

RULES OF PROCEDURE, AS AMENDED, MARCH 11, 1971

Rule 1. Unless the Senate is meeting at the time, or it is otherwise ordered, the Committee shall meet regularly at 10:30 a.m. on the fourth Thursday of each month in Room 4232, New Senate Office Building. The Chairman may, upon proper notice, call such additional meetings as he may deem necessary.

Rule 2. The Chairman of the Committee or of a subcommittee, or if the Chairman is not present, the ranking Majority member present, shall preside at all meetings.

Rule 3. Meetings of the Committee or a subcommittee shall be open to the public, except executive sessions for the consideration of bills or resolutions, or for voting, or when the Committee or subcommittee by majority vote of those present orders an executive session.

Rule 4. For the purpose of transacting business, one-third of the membership of the Committee, or a subcommittee, actually present shall constitute a quorum, but no measure or matter shall be ordered reported from the Committee unless a majority of the Committee is actually present at the time such action is taken. Any quorum of the Committee or a subcommittee which is composed of less than a majority of the members of the Committee or subcommittee shall include at least one member of the Majority and one member of the Minority.

Rule 5. With the approval of the Chairman of the Committee or subcommittee, one member thereof may conduct public hearings, other than taking sworn testimony.

Rule 6. Proxy voting shall be allowed on all measures and matters before the Committee or a subcommittee if the absent member has been informed of the matter on which he is being recorded and has affirmatively requested that he be so recorded. While proxies may be voted on a motion to report a measure or matter from the Committee, such a motion shall also require the concurrence of a majority of the members who are actually present at the time such action is taken.

Rule 7. There shall be kept a complete record of all Committee or subcommittee action. Such records shall contain the vote cast by each member of the Committee or subcommittee on any question on which a "yea and nay" vote is demanded, and shall be available for inspection by any Committee member. The Clerk of the Committee, or his assistant, shall act as recording secretary of all proceedings before the Committee or a subcommittee.

Rule 8. The Committee, and each subcommittee, shall undertake, consistent with the provisions of section 133A of the Legislative Reorganization Act of 1946, as amended, to issue public announcement of any hearing it intends to hold at least one week prior to the commencement of such hearing.

Rule 9. The Committee or a subcommittee shall, so far as practicable, require all witnesses heard before it to file written statements of their proposed testimony at least 24 hours before a hearing, unless the Chairman and the ranking Minority member determine that there is good cause for failure to so file, and to limit their oral presentation to brief summaries of their arguments. The presiding officer at any hearing is authorized to limit the time of each witness appearing before the Committee or a subcommittee. The Committee or a subcommittee shall, as far as practicable, utilize testimony previously taken on bills and measures similar to those before it for consideration.

Rule 10. Should a subcommittee fail to report back to the full Committee on any measure within a reasonable time, the Chairman may withdraw the measure from such subcommittee and report that fact to the full Committee for further disposition.

Rule 11. No subcommittee may schedule a meeting or hearing at a time designated for a hearing or meeting of the full Committee. No more than one subcommittee executive meeting may be held at the same time.

Rule 12. It shall be the duty of the Chairman in accordance with section 133(c) of the Legislative Reorganization Act of 1946, as amended, to report or cause to be reported to the Senate, any measure or recommendation approved by the Committee and to take or cause to be taken, necessary steps to bring the matter to a vote in the Senate.

Rule 13. No person other than members of the Committee, members of the staff of the Committee, or designated assistants to members of the Committee, shall be permitted to attend the executive sessions of the Committee or a subcommittee, except by special dispensation of the Committee or subcommittee, or the Chairman thereof.

Rule 14. The Chairman of the Committee or a subcommittee shall be empowered to adjourn any meeting of the Committee or a subcommittee if a quorum is not present within fifteen minutes of the time scheduled for such meeting.

Rule 15. Whenever a bill or joint resolution repealing or amending any statute or part thereof shall be before the Committee or a subcommittee for final consideration, the Clerk shall place before each member of the Committee or subcommittee a print of the statute or the part or section thereof to be amended or repealed showing by stricken-through type, the part or parts to be omitted, and in italics, the matter proposed to be added.

Rule 16. An appropriate opportunity shall be given the Minority to examine the proposed text of Committee reports prior to their filing or publication. In the event there are Minority or Individual views, an appropriate opportunity shall be given the Majority to examine the proposed text prior to filing or publication.

Rule 17. Investigation procedures

a. The Committee, or any subcommittee, may issue subpoenas, or hold hearings to take sworn testimony or hear subpoenaed witnesses, only if such investigative activity has been authorized by vote of the Committee.

b. For the purpose of holding a hearing to take sworn testimony or hear subpoenaed witnesses, three members of the Committee or subcommittee shall constitute a quorum: Provided, however, that with the concurrence of the Chairman and ranking Minority member of the Committee or subcommittee, a single member may hear subpoenaed witnesses or take sworn testimony.

c. The authority to issue subpoenas may be delegated by vote of the Committee or subcommittee.

d. Any witness summoned to testify at a hearing, or any witness giving sworn testimony, may be accompanied by counsel of his own choosing who shall be permitted, while the witness is testifying, to advise him of his legal rights.

e. No confidential testimony taken or confidential material presented in an executive hearing, or any report of the proceedings of such an executive hearing, shall be made public, either in whole or in part or by way of summary, unless authorized by a majority of the members of the Committee or subcommittee.

Rule 18. Subject to statutory requirements imposed on the Committee with respect to procedure, the rules of the Committee may be changed, modified, amended or suspended at any time, provided, however, that not less than a majority of the entire membership so determine at a regular meeting with due notice, or at a meeting specifically called for that purpose.

Rule 19. In addition to the foregoing, the proceedings of the Committee shall be governed by the Standing Rules of the Senate and the provisions of the Legislative Reorganization Act of 1946, as amended.

DEFENSE BUDGET FOR FISCAL YEAR 1973

Mr. TOWER. Mr. President, my record on national defense is long and clear. I have always felt that strong, adequate Armed Forces are a prerequisite to the survival of the freedom we all hold so dear.

The administration has recently introduced its budget proposals for fiscal year 1973. There are many areas of defense preparedness that have been allowed to deteriorate during the Indochina conflict. Our Navy urgently needs modernization. We must begin new initiatives in strategic nuclear weaponry to counter continuing Soviet movement. We must

develop new ways to compete on the open market for manpower to realize our objective of an all-volunteer armed force. All of these, and more, require money.

Surprisingly, many Americans are not aware of the declining state of the Nation's defense. Without their support, without their realization that everything they have worked for and hope to achieve is at stake, the possibility of having the size and quality of deterrent force we require is slim.

Part of the responsibility to inform the people is ours. But the Department of Defense must also be available to the people, not simply those in Washington, D.C., but also throughout the country. There are those who feel that these efforts are merely propaganda. They would cut the public affairs budget to restrict this activity. But I feel it is the responsibility of the Defense Department to be available to the people throughout the Nation. One of the finest explanations of the role of public affairs activities was given in a recent speech by Deputy Assistant Secretary of Defense Jerry Friedheim. I ask unanimous consent that his speech be printed in the RECORD.

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

ADDRESS BY MR. JERRY W. FRIEDHEIM, PRINCIPAL DEPUTY ASSISTANT SECRETARY OF DEFENSE (PUBLIC AFFAIRS), AT OZARK BIBLE COLLEGE, JOPLIN, MO., FRIDAY, JANUARY 21, 1972

I very much appreciate the invitation to be here as you conclude this National Security Seminar. As a Defense official, I appreciate also the fact that you invited here the military and Foreign Service scholars from the Industrial College of the Armed Forces.

As you know, this Seminar is especially designed to bring training to Reserve members of the Armed Forces who do not have an immediate opportunity to attend formal classes at a Service School.

This is just one example of the increasing importance we attach to having ready and well-trained men and women in our National Guard and Reserve forces, particularly during this time when our active military forces are decreasing in size by a million men and when our reliance on the draft is being phased out.

I also am pleased that you citizens here in Joplin have welcomed to the Seminar members of the general public—and a great many students.

I hope you are prepared, though, to hear a few complaints.

Because, while most people will applaud your interest in our national security, your Ozark hospitality and your openness; some will complain that neither the Seminar group, nor I, should be here—and that, even if we are, the public should not be permitted in.

The complainers seem to feel that it is quite all right, for example, for me to hold a daily, on-the-record press conference at the Pentagon or to report to newsmen in Washington or New York, but they do not agree with me that I have an equal responsibility to accept, when my other duties permit, invitations to talk with newsmen and citizens in Joplin, or Fresno or Austin or New Haven—all places I have been on this job.

The complainers seemed to feel it is quite all right for the members of the Industrial College faculty to present lectures and receive questions in Washington; but they would not allow these men to travel tempararily outside Washington to make the same sort of classes available this year to Reservists and citizens in such cities as Utica, Bakersfield, Duluth and Biloxi.

You may recall that two years ago there was a Senate discussion about whether or not the public should be allowed to attend these Seminars. And, you may recall that just about a year ago, on a national TV show, an erroneous charge was made that these seminars present military men speaking illegally on foreign policy.

I have always wondered why that TV show did not say—although its producers knew, just as you know—that a Foreign Service Officer is a member of this Seminar team and that the views expressed by this team are fully coordinated with and representative of the policies of both the Department of Defense and the Department of State.

So there are worriers and complainers and critics—some constructive, some not. They worry that you are being militarized and misled and manipulated by what they contend is a somehow sinister Seminar. They give you a good deal less credit than I do for common sense, skepticism and independent thoughtfulness. They seem to say, that only in Washington are people wise enough and reliable enough to participate in the affairs of their country.

Now, as you very well know not all wisdom resides in Washington. And, I want to assure you that I am not apologizing to anyone for accepting invitations to visit not just large cities but small cities as well. I may be prejudiced, of course about the vitality of smaller cities, because I went to Washington from a grass-roots part of our country; so did Secretary of Defense Melvin Laird—from Marshfield, Wisconsin; and so did President Nixon—from Whittier, California.

But, most of all I want you to know that the Department of Defense is proud of what this team, from this Armed Forces college, does. We respect their scholarship; and we respect their integrity—and fortunately so, too does the vast majority of our Congress, whose members often join in these seminars around the country.

Certainly, I will apologize to no one because you students and you of the public are free, by your own choice, to join your military-reservist friends here. We at the Department of Defense believe you have a right to be here. We believe that we have a responsibility to be open and on-the-record with you; to answer your questions and to explain to the best of our ability what your government is doing and planning.

We do not demand that you believe anything you have heard. We open the entrance door; but don't bar the exit doors. We have found we can learn much from you; your advice and suggestions are needed and necessary.

Your Seminar lecturers don't work for anybody but you. I work for you. Your Department of Defense is not somehow separate from you. It's yours.

We sometimes are called the Military-Industrial Complex—but we are much more. We are a Military, Civilian, Industrial, Union, Academic, Congressional, Scientific, Business, Research, Diplomatic, Medical, Educational, Retiree, Veterans sort of complex.

And, if that gets to sound like a rather National Complex—well it is. It's a nation united for national defense. It's big because the responsibilities of achieving and maintaining peace are big responsibilities.

Your defense servicemen are of America, not above America, they draw their strength from America's strength. We like it that way, and I am here today, because the Administration in which I serve feels strongly that we must talk to and listen to Americans everywhere in this nation.

Of course, the Commander-in-Chief has been talking with you, too. Yesterday we heard his State of the Union Address.

And Monday the President will present his budget for the next fiscal year—including his budget for national security needs. Those of you here will have added insight into the consequences of that budget because of your participation in this Seminar.

And, you will be interested, I know, in what our President decides to include in his budget request to Congress. He will include several new initiatives to ensure that our strategic deterrent remains adequate in the face of continuing momentum of Soviet weapons development and deployment. And, the President's new Defense budget will continue our priority on scientific research and will continue modernization of our Navy's fleet.

Secretary Laird stated in his 1971 Defense Report to Congress that it is our goal to provide national security and safety for our people in a realistic manner requiring annually no more than seven percent of the Gross National Product and needing no more than 2.5 million military men and women who are volunteers. As we achieve ever-increasing volunteerism, we will meet those spending and manpower goals again in 1972.

It has cost and will continue to cost a lot of money for national defense but you should carefully note that our Defense budgets are now at a 20-year-low as a portion of the Federal budget and as a percentage of the Gross National Product. And our military manpower level is at a 20-year-low, also.

National defense—which used to take more Federal dollars than anything else—is now in second place behind Federal expenditures on human resource programs. But, even though that reordering of priorities has been accomplished, we must never allow our nation to become second best in national-security strength; and you may be certain that the budget presented Monday will assure our strength.

It will provide both flexibility and a strong negotiating position for our delegation at the Strategic Arms Limitation Talks with the Soviets. It also will reflect savings from our terminating involvement in Vietnam.

As the President announced last week, there will be fewer than 69,000 U.S. servicemen and women left in South Vietnam by May first. That's 87-percent-fewer than the authorized Vietnam strength of 549,500 when President Nixon assumed office. U.S. air sorties are down 67 percent from their 1968 peaks, and, of course, costs and casualties are dramatically down, too. President Nixon has reversed the Vietnam escalator from one going up to one going down.

In fact, although we will maintain a limited American presence in Vietnam until all our prisoners-of-war have been returned safely by the enemy, we really are able now to look beyond Vietnam. We are able to have a new perspective on the world. We are able to anticipate a new era in world history and to respond to new realities.

You have heard already during your Seminar about the President's Foreign Policy for Peace and about the Nixon Doctrine. This Policy for Peace and this Nixon Doctrine are the foreign policy keystones for our nation's international future. They face up to reality, and point the way toward lasting peace in a period of history greatly changed from the 1950's and even from the 1960's.

The Nixon Doctrine, as you here know, strikes a balance between what America should do and what our friends can do. It allows us to do enough—without doing too much. It insures continuance of the U.S. nuclear shield. It says that we will keep our treaty commitments and participate with our friends in safeguarding world stability and progress—but not do everything ourselves.

The Nixon Doctrine says we will be involved but not overinvolved. It expects others to do more because others are now able to do more.

The Nixon Doctrine implements the three pillars of the President's Policy for Peace—"partnership, strength and a willingness to

negotiate." And that Policy for Peace is supported also by the Defense Department's new National Security Strategy of Realistic Deterrence.

Our 1970's Strategy of Realistic Deterrence operates in the areas of "strength" and "partnership" which make "meaningful negotiation" possible. It is a positive strategy which emphasizes cooperation with our friends and allies around the world. It makes clear, however, that the U.S. will concentrate more on seapower and airpower, while looking to other nations to provide most of the manpower needed on the ground overseas.

In its simplest formulation, our new national security strategy seeks to steer a prudent, middle-course between the policy extremes of world policeman and a new isolationism. It seeks to foster greater readiness on the part of others and greater regional defense cooperation.

We are asking other nations to do more than they have done in patrolling the beat in their own neighborhoods; we are avoiding situations in which the United States is the only cop on the beat.

This new strategy was overdue when President Nixon assumed office. Our country had, for a quarter of a century, borne at great cost in lives and resources an overwhelming share of the burden of maintaining peace and deterrence. Many nations which had looked to us for protection in the past had come of age and reached a stage of development and strength which made them capable of assuming more of the burden that we had been carrying. They are now helping carry that burden, and they will be able to do even more.

This new strategy lessens the strain on our own country's resources. It puts within reach the day when the draft can be ended. It guards against future Vietnams. It lowers the threshold for possible involvement of U.S. forces in conflict. And, it brings greater collective strength by mustering the strengths of all nations who believe freedom is worth preserving.

It has led us already into a time of intensive negotiations and made possible the coming trips to China and Russia as our President continues his work as the world's leader for peace.

But, let's be very clear, now, about what our national security strategy is and what it is not. It promotes a more equitable sharing of the free-world's defense burdens, but it does not mean a retreat to Fortress America.

We are not going to be the world's cop; but neither are we going to cop out on the world.

We are the Free World's leader, and we will maintain that position while inviting other nations to share in an even more participatory leadership.

Let's remember that, since World War Two, America has preserved freedom and national independence in more than half the earth. We have prevented nuclear holocaust. We have helped restore Western Europe and Japan. We have helped friend and former foe achieve prosperity, liberty and stability. We have sustained the United Nations.

We have led the way to a cease-fire in the Middle East. We have aided millions of refugees from natural disaster and war the world over.

We have offered the hand of friendship to the less fortunate in this world, if they will but take our hand.

We have led the way.

And, we intend to maintain our leadership, our strength, our partnership, and our willingness to negotiate. We recognize a new era in the world's history—an era in which the power relationships and the programs that developed after World War II are no longer adequate nor relevant. We see a world in which neither Communism, nor anything else, is monolithic.

We intend to pursue a realistic national security policy that recognizes our own basic, national-self-interests. We do not regard it as essential to our security in the 1970's that we be everywhere and do everything and fight every battle and finance every bank in an effort to remake the world in our own self-image and to our own system of government.

We view our security requirements not with the sometimes two-dimensional visions of the past, but in terms of a many-faceted balance of power that can permit deterrence, and stability, and negotiation, and flexibility in a dynamic world.

We look forward to coming decades in which nuclear war and brushfire war involving the great powers are less likely—decades during which other great powers may seek, short of war, to limit—by their worldwide presence and influence—our access to the world's peoples and resources.

This matter of "access" and of "presence"—without war and in order to deter war—is fully accommodated by our Nixon Doctrine plans.

We expect that it will remain useful to world stability for the U.S. to maintain a military presence in Europe, in the Mediterranean area, and periodically in all the major oceans of the world. It is a case in point that, as we complete our withdrawal from South Vietnam, we are in transition from warfighting forces in Southeast Asia to Nixon Doctrine deterrent forces in that part of the world.

We are not abandoning the Pacific, nor are we abandoning Asia, but our coming Nixon Doctrine presence there will be primarily deterrent air and seapower forces that would, in the future, engage in combat and assist other nations only under the principles of our new strategy.

It does seem a little presumptuous, I suppose, for me to come here so briefly on the last day of this Seminar—during which you have discussed so much—and expound to you about what the future holds for America. I cannot pretend in these closing remarks to pull together neatly for you all your thoughts of the last two weeks. And, while I might claim to be either journalist or political-scientist—or a temporary bureaucrat—I certainly am no philosopher.

Let me simply point out that while tomorrow will be different, not everything will be changed.

One could make a good case, I think, for the unchanging nature over the centuries of man's relation with man. We humans relate to our neighbors and our neighboring-nations today in very much the same way that citizens of Rome responded to their neighbors—with love and fear, envy and pride, dedication and apathy, trust and trickery, cooperation and neglect.

The interaction of all these ancient, yet everlasting, human foibles generated the politics of the Roman Senator, the Oriental Emperor and the Egyptian Pharoah just as such emotions affect the United States Congress and the United Nations Assembly—and just as they will generate the future's national and international relations.

We can hope, of course, that men will continually learn how to get along better—slowly but surely. There is precedent, I think, for us to hope that improved education will lead to greater peace and prosperity.

At least some nations today do not resort to war as an instrument of national policy. Many societies feel a desire and a responsibility to assist others rather than to exploit others. Yet, even with this hope, I doubt that we can expect our future world to be free of tyrants, or of evil, or of the covetous and the selfish.

So, though we strive for perfection; let us not be blind to reality. Let us instead anticipate challenge and pursue progress.

And let us remember that the United States of America has operated for nearly 200 years as a constitutional government; that we have the world's oldest written-constitution still firmly in force and effect.

America, in fact, is doing pretty well, thank you.

For nearly two centuries Americans have made workable—government "of the people, by the people and for the people." With the consent of the governed we have established a republic—under God—which recognizes both liberty and reality. We have drawn upon our heritage of law to operate the most successful government ever conceived by man.

An America which has survived thus far certainly can and will survive much longer. The constitutional principles which have proved adequate to give order to 200 years of transition from carriages to space-capsules—those principles are fully capable of bearing us safely into a future of underseas habitation and lunar cultivation.

There are those, of course, who already claim our constitutional democracy is out-of-date and out-of-touch. They tell us changing times demand changing principles, and that the concept of liberty vacillates like concepts of fashion. They think technological advances necessarily outmode historical values. They would have us believe that mere man cannot hope to control tomorrow.

They tell us we must fit our values of the future.

Not so.

This is not a time to bend principles to the future—not a time to sell America short.

What we must do is what Americans always have done—we must fashion the future to our values, we must provide tomorrow with principle.

Let the fainthearts, who say we cannot make it . . . let them come along for the ride; for it is going to be a wondrous ride, indeed.

Over the coming decades your government, with your participation and guidance, is going to create a climate for the most secure, most healthy, most prosperous existence ever known to man.

We are going to meet challenges and lick them.

We are going to face and deal with such things as tripled population, 100-year life spans, exotic life-saving drugs, uninjuring weapons, ocean farming, fusion power, robots, weather control, space exploitation, instant communication and a host of other modern miracles.

Tomorrow? It's worth waiting for.

And America? America . . . she's doing very nicely, thank you.

And she's worth everybody's best efforts!

ALASKA OIL LEASE SALE

Mr. STEVENS. Mr. President, some time ago the Wall Street Journal published an article indicating that Alaska was spending its money from the September 1967 oil lease sale just as fast as it could, with little regard for the future and in a manner that will leave Alaska bankrupt within a short period of time. The overall effect was to give the appearance that Alaska should not be expected to take care of her own financial matters prudently and that, in fact, only the worst should be expected. For the RECORD, I should like to describe the actual situation and thereby point out that, far from being unable to manage its economic affairs, Alaska is, in fact, acting very responsibly.

Accordingly, if there is no objection, I ask unanimous consent to have printed in the RECORD the comments of Eric E. Wohlforth, commissioner of the Alaska Department of Revenue. Mr. Wohlforth tells it like it is—and he has earned a

reputation of sound financial management in a time of economic stress in Alaska,

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

ADDRESS OF ERIC E. WOHLFORTH, COMMISSIONER OF REVENUE, STATE OF ALASKA, TO THE MUNICIPAL FORUM ON FEBRUARY 4, 1971

As you know the Wall Street Journal carried an article on November 16 which gave some of the details of Alaska's present financial situation but unfortunately left out the really important and salient facts in making an intelligent assessment of the State's economic and financial future.

The tone of the article was that Alaska was on a spending spree with complete drawdown of our budget surplus around the corner. This simply is not true.

In order to give an accurate view of the State's financial picture, the Governor wrote a number of financial institutions and others giving a complete account of what has in fact happened in Alaska since the $900 million lease sale of September, 1969.

Governor Egan pointed out that Alaskans recognized in 1971 that the legislators and the people were simply honestly mistaken in 1970 by assuming completion of the Trans-Alaska pipeline by 1973. That mistake led to a high level of budgetary spending in 1970. When Governor Egan took office in December 1970, he immediately ordered a series of computer projections based on the current spending rate of the previous administration and a more realistic date of North Slope oil flow. These projections did show steep deficits in the late 1970's if spending rates were not drastically curbed. The Legislature responded by cutting back the 1970 budget from $300 million to $292.1 million.

I think it is probably unique in the annals of State government that this cutback in State spending was accomplished when the amount in the Treasury equalled three times the annual expenditures.

The investigation which led to the cutback was prompted by a recognition that we had as Alaskans to choose the path of financial stringency until North Slope revenue were assured.

Part of the ability to persuade the Legislature to make the cutback was based on technical innovations in the State's revenue estimating and budgetary process.

On a crash basis we developed a computer model, as mentioned in the Wall Street Journal article, which extended our ability to project revenues and expenses ten years. The model utilizes differing assumptions as to the growth of State operating expenses and differing assumptions as to the time of North Slope oil flow. In addition, much of the calendar year 1971 was devoted to implementing a budget procedure which has already significantly contributed to operating our State government at maximum cost efficiency. With the help of Management Analysis Corporation of Palo Alto, California, an infusion of new talent in various departments, and at times an extraordinary expenditure of extra effort by all public officials of the State we instituted for this budget year a program budgeting procedure of broader scope than that perhaps implemented by any other state government. This new budget procedure has given the administration much greater insight into expenditures and provides all Alaskans with the analytical tools to identify programs such as general government, health, education, welfare, and others, where savings can be made cutting across departments. Using this technique many programs have been made more efficient while the overall budget increase has been kept in line with the trend set last year.

The philosophy of my own Department of Revenue is to build inhouse investment management expertise. We have a permanent investment staff of four, all of whom have investment backgrounds. We work on a daily basis with our principal investment advisors and others to secure maximum return on our funds consistent with the possibility of drawdowns prior to realization of North Slope oil revenues.

In addition, and in recognition of the expected expansion of the nation's economy in calendar year 1972 and beyond, we have placed a small amount of general fund North Slope proceeds with trust departments of Alaska banks for investment inequities. Such amounts were placed with our banks after long and thorough deliberation, a performance study of their history of management of our pension funds, and development of investment strategy guidelines. In operation the new investment program involves almost daily contact with the banking system to establish the necessary dialogue of philosophy between outside and inhouse management. In addition, we contemplate development of further staff capacity to permit some direct inhouse investment of portions of the North Slope fund. We are still actively considering retention of further outside investment counsel to manage portions of the fund.

We are striving for constant improvement of our banking procedures attempting to keep every dollar working at interest for the State. We also keep in constant contact with the banking system to maximize the economic impact of our $102,000,000 of State C.D.'s in Alaska banks.

As of January 31, 1972, two years and four months after the lease sale, the market value of our North Slope securities is $829,800,000. Our realized earnings rate on the Investment Agency portion for the year 1971 was 10.2%. Total cash and investment assets of the State on February 1, 1972 equalled $863,-500,000.

The Wall Street Journal article also noted that there is an effort by some legislators to channel North Slope fund proceeds to development loan purposes, some of which represent fairly acute need, some of which fall in the desirable but not immediately necessary category. In an effort to rationalize a State Development Loan Program the Governor sponsored this fall a Development Loan Workshop comprised of representatives of the World Bank, the International Banking Division of the Bank of America, the Bank of Tokyo, and others to assist in development of a proper development loan vehicle for the State. We know that Alaska partakes in some respects of the characteristics of an under-developed nation and we felt that the insights that World Bank and International Bank representatives could bring to the Alaska scene might prove valuable in establishing a sound development loan financing effort. It is this Administration's view that the State should not embark on total financing of development loan efforts but should seek tandem investment with outside venture capital. State funds should work as a catalyst for outside venture capital investment. This was the unanimous conclusion of the conference, as reflected in Governor Egan's proposed establishment this year of a new Department of Community and Economic Development. This new department will have a task oriented steering committee to determine the exact areas and particular eligible projects in Alaska which could be advanced by a new financing vehicle.

I will conclude this present report on Alaska's present fiscal status by mentioning the fact that the Official Statement now in your hands for our bond sale on February 8 points out that our new proposed budget represents only a 4.6% increase over the budget adopted by the Legislature last year. From this rate of expenditure increase, now at least in partial effect for a two year period, we can see fiscal daylight even with a longer delay in North Slope oil flow than our current estimate of July 1, 1976.

As far as a spending spree is concerned, as stated in the Journal headline, the answer is that it "just ain't so". In one prime area, total state support for Pre-School, Elementary, and Secondary education goes down from $79,400,000 last year to $78,305,000 this year. Other examples from the proposed budget could be cited to show actual proposed cutbacks in State expenditure.

With such cutbacks the trend—line revenue projections—show the State in a constant surplus position through the last year of the estimate, 1982.

These projections are conservative in showing only a 6% annual rate of expenditure increase in fiscal years 1974 through 1976 and 8% thereafter, North Slope oil to begin in 1976, and no major oil lease sales planned.

It is also worthy of mention that Alaska has managed to keep its income tax rates at the same rates today as in 1961. Our largest city, Archorage, does not levy a sales tax and Alaska is one of five remaining states imposing no sales tax. The only tax increases proposed this year—a cigarette tax increase and a bank franchise tax increase to bring us up to the national norm—together a ½% income tax increase to counteract the federal tax decreases.

The most significant socio/economic event for Alaska in 1971 was the passage in December of the Alaska Native Land Claims Settlement Act which basically provides for actual transfer of 40 million acres to Native communities and eventual payment of $925 million, $500 million of which will be provided from 2% of gross mineral value and of bonus and lease income. The Native Land Claims Settlement Act represents, for the first time anywhere in the United States, a morally and ethically sound treatment of the aboriginal claims of the owners of the land when Western civiliaztion arrived. Native leaders are doing much preparation now for the post settlement period and are concentrating on the real needs of their people. Economically the settlement provides a way for rural Alaska to move into the cash economy and contribute to the overall economic good of the State. In the past there have been two economic systems in the State, the cash economy represented by the urbanized Anchorage/Fairbanks and the Southeast complex, and the subsistence barter economy represented by rural Alaska. Alaska's rural economy has been a cash drain on more urbanized Alaska. The settlement, which will be properly administered with the cooperative help of the State, represents the potential end of this economic drain. When rural Alaska emerges as a viable economy and a strong part of the State it will be one of the most positive economic events to happen since Statehood.

Passage of the Native Land Claims Settlement Act freed the State to make the final selection of land to which it was entitled under the Statehood Act of 1959. On January 16, 1972, Governor Egan made the final selection adding 76 million acres to state-owned lands. The selections, delayed five years by the land freezes, were made after intensive review of multiple land use characteristics by all affected state departments. Indeed, the State has initiated on its own a land use program which together with Federal funds will work towards development of a land use plan of all Alaska for the long term economic and sound benefit of Alaskans and citizens of the rest of the United tSates.

Any final assessment of the economic potential of the State must start with a realization of one basic fact. To an extent greater than any other state, Alaska owns its subsurface resources. With development of those resources we can and will share in the monetary gain which their ultimate sale will represent. Thus, unlike other oil and gas states, our state revenues need not be derived only

from taxation of the resources but also from the participation in their development.

Passage of the Native Land Claims Settlement Act was a giant step toward proper development of those resources.

The battles which will be faced over the issue of "lock up Alaska forever" as proposed by some environmentalists versus the State's desire for "sound development" are similar to those which Alaskans faced during the natural disaster of the Earthquake of 1964 and the Fairbanks Flood of 1967. I believe that our successes here show that Alaskans have the ability to take on these challenges of the future.

It is in this context of not being overcome by events but rather to shape our future that Governor Egan's pipeline proposal should be viewed. His proposal was largely based on the fact that the pipeline will represent one of the laregst public utilities in the world, perhaps exceeding $3 billion in cost compared to Alaska's current assessed valuation of $2.68 billion. The Governor realized that Alaska's economic future is deeply wedded to the public conveyance of petroleum thoughout the State and that many important issues besides the purely fiscal one of maximizing State revenues are involved with the State's stance towards the pipeline. For this reason Governor Egan initiated in October probably the most comprehensive survey ever attempted by any state directed toward all the ramifications of state or private ownership and financing of the pipeline. In addition to selecting a management underwriting feasibility team of seven major underwriters, the firm of Tibbetts, Abbot, McCarthy and Stratton was engaged to inform the State on the operational costs of the line as well as to confirm the total cost as stated by the oil companies. The economic and management consulting firm of Temple, Barker & Sloane of Massachusetts was engaged to make indepth surveys of taxation and the regulation potential of pipeline ownership in private or public hands. Among other things, the range of private possible pipeline charges in private ownership are being carefully estimated because of their potential effect on the value of the oil upon which our present royalty and severance tax structure is based. In view of this and the fact that a prior report rested on questionable assumptions, the Governor felt that it was incumbent upon him to make this indepth survey of the legal engineering and financing feasibility of the State pipeline ownership. The effort is now continuing on an intensive basis. In order to bring the issue to the consideration of the Legislature, early this week the Governor introduced a bill authorizing the creation of a Trans-Alaska Authority for construction, financing, and ownership of the pipeline as well as a bill authorizing the submission to the voters of a bond issue of $3.5 billion for the same purpose. At the same time regulatory bills were submitted for legislative consideration. Shortly there will be submitted to the Legislature an indepth feasibility report based on research on the pipeline ownership issue. We know that some oil company cooperation is essential to State financing but we also had to know the tax and economic facts which will affect state income on initial flow. The bond issue proposal must be viewed in this context of the study effort, the necessity of legislative hearings on the whole issue, the necessity of a vote of the people, and finally the test of the market. As you know financing is permissive even after legislative and voter approval and I am convinced that if the final decision for State financing of the line is positive, the bonds would be of necessity have to be so well secured and would reach such a broad market of new Alaska investors that the value of our general obligation bonds could only be improved. In any event no financing plan will contain any elements diminishing the security of general obligation bonds of the State. If there is a state or authority bond issue for the pipeline you may be assured that it will be based on objective cost-benefit determinations derived from the particulars or a specific financing plan.

I am able to make these statements because I know that Governor Egan is very much aware that Alaska's image of financial solvency is a great asset which must not be frittered away by too great expenditure today or by injudicious bond financing plans. He is aware that enhancement of our financial solvency, as reflected in the hold-the-line budgets submitted the last two years, is essential to our ability to continue to borrow money on the bond market at competitive interest rates.

Included on the main table are copies of the magazine Alaska Construction and Oil for January 1972. The construction review for 1971 concludes that 1972 will be a better construction year than 1971 despite delay in granting the pipeline permit. A principal factor in the 1971 increase in construction level was the high level of private investment in the State which the article concludes will remain strong in 1972 even without a pipeline start. The article notes that contract totals for the entire State received by the magazine amounted to $208 million for 1971.

Some of this construction is attributable to public projects which include needed highway connections, additional educational facilities, airport improvements and the like which are among the purposes of the bond sale scheduled for February 8.

Alaskans know the importance of our ability to borrow at competitive rates on State general obligation bonds and other bonds must be maintained at all times and that bond service is given the highest priority in the State of Alaska budgeting. I believe that this view will continue and is reflected in part by the sharp reduction in the number of bonds requested by the administration for authorization by the Legislature and submission to the people of $71 million. Only vitally necessary airport, university, flood control, hospital, and water and sewer projects are included in the proposed bond issue program, which if passed by the Legislature will go to the voters this fall.

Besides the somewhat surprising fact of a substantially better 1971 than 1970, leading economic indicators have shown a dramatic increase in taxes and licenses over the last five year period rising from $54.7 million in 1966 to an all time high of $91.7 million in fiscal 1971. All this has been accomplished without any general tax increases. I won't detail the particular increases in other leading tax and license indicators which are set fortn in the text of the speech. (In 1966 78 thousand individual Alaska income tax returns were filed in the state netting the State $19.2 million as compared to 116 thousand returns filed in 1971 netting $35.4 million. As indicated before, the volume of business in the State has risen dramatically as reflected in the 100 per cent increase in gross receipts of $1.4 billion in 1966 to $2.9 billion in 1971. In like fashion the premium value of insurance written in the State rose from $58.6 million in 1966 to $113.2 million in 1971, again nearly a 100 per cent increase. Bank deposits in the State in 1966 was $382 million and rose to $637 million in 1970. More immediately, gross collections of taxes and fees went from $90.8 million in fiscal 1970 to $101.1 million in fiscal 1971.)

This is an over long summary of Alaska's current economic status and developments of the last year although much more could be said of developments in timber, fisheries, and our other great renewable resources industries. When any Alaskan starts talking about his own state it is hard to get him to stop and of course I know that everyone tends to crow about his own back yard.

Those of you who have visited our State and spent some time in Anchorage, Juneau, and Fairbanks, have some picture of the pace of life and activity and spirit which makes Alaskans proud of their state and willing to devote many hours to its growth and development. Our small population of 302 thousand is growing at a rate in excess of 6% each year and the state is attracting more and more people who see the benefits of an unspoiled quality of life. The fact that we are few in number means much discussion of public issues. Public problems loom large in everyone's minds. To an investor, however, the basic point is that there is a spirit of desire to make the state the best possible place to live. This spirit includes recognition of the importance of financial solvency as well as the human and environmental resources that provide a better quality of life. It also means that each Alaskan is aware of how much money the State is borrowing and intimately concerned with the debt service we pay on our bonds. Alaskans know that these bonds mean more adequate schools, more pollution control facilities, and more airports—that especially vital transportation link. This spirit of community interest is a precious asset and, I believe, although a highly intangible one, a value that must be considered in your very technical job of pricing our bonds. We can overcome adversity and have a clear view of the Alaska we expect to develop in the 1970's and beyond. Our economic stability is improving yearly and our economic potential is being realized at a greater rate than could have been foreseen even five years ago. We welcome more of you to visit us and to see what is happening in Anchorage and elsewhere where your investment money has been placed. In the meantime I will attempt to answer any questions you may wish to ask concerning our financial and economic life. I extend Governor Egan's invitation for as many of you as possible to come see our State and hopefully to capture some of the spirit of the last, and I feel ultimately the greatest, frontier.

THE GENOCIDE CONVENTION

Mr. HUMPHREY. Mr. President, on the last day of the 1971 session of Congress, the distinguished majority leader (Mr. MANSFIELD) reminded us that ratification of the Genocide Treaty was on the calendar and awaited only a better indication from the Members of the Senate that they were prepared to take up the issue. I rise today to express the hope that we may soon have the opportunity to debate and pass on this issue. Altogether too many years have now gone by without Senate confirmation of this basic, humanitarian declaration.

During these many years in which we have failed to ratify the treaty, a series of myths have developed about it. These myths have been effectively rebutted time and time again, but never as clearly and brilliantly as two of the Nation's outstanding experts and scholars have done in the current issue of the Journal of the American Bar Association.

The authors are Arthur J. Goldberg, the former Justice of the Supreme Court and Ambassador to the United Nations, and Richard N. Gardner, the Henry Moses Professor of Law and International Organization at Columbia University and former Deputy Assistant Secretary of State for International Affairs from 1961 to 1965.

Both Justice Goldberg and Professor Gardner appeared on behalf of the Ad Hoc Committee on the Human Rights and Genocide Treaties about a year ago

before the Senate Foreign Relations Committee and presented impressive testimony in support of ratification of the Genocide Treaty. Their article in the ABA Journal is a persuasive summary of the case for ratification and an eloquent refutation of every major argument made against it. I commend its reading to every Member of the Senate.

Twice now, the Senate Foreign Relations Committee has approved ratification. The President of the United States has requested such ratification. In the last 23 years, 75 nations have ratified the treaty. The United States is the most prominent nation that has failed to do so. The reasons for doing so are summarized in the concluding paragraph of the Goldberg-Gardner article:

The Genocide Convention outlaws action that is repugnant to the American people. We should not decline to affirm our support for principles of international law and morality which we believe in. Our country was founded out of a passionate concern for human liberty reflected by the Bill of Rights and the Constitution. We believe that concern is very much alive today, as is reflected by the report of the Foreign Relations Committee supporting the Convention. It is inconceivable that we should hesitate any longer in making an international commitment against mass murder. At a time when our commitment to human rights is being questioned by some of our own people and by others overseas, it is particularly important that we ratify a treaty so thoroughly consistent with our national purpose.

Mr. President, I ask unanimous consent that the complete text of the article from the February 1972 issue of the Journal of the American Bar Association be printed in the RECORD.

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

TIME TO ACT ON THE GENOCIDE CONVENTION

(By Arthur J. Goldberg and Richard N. Gardner*)

It is now more than twenty-five years since the United Nations first took up the question of the prevention and punishment of the crime of Genocide. On December 11, 1946, the General Assembly unanimously adopted Resolution 96(I) which affirmed "that genocide is a crime under international law" and requested the Economic and Social Council to draft a Genocide Convention. Two years later, on December 9, 1948, the text of the Convention was unanimously approved by the General Assembly.

Seventy-five countries have now ratified the Genocide Convention. The United States is the most prominent UN member that has not. One reason for our country's failure to ratify—very possibly the principal reason—has been the opposition of the American Bar Association recorded in a decision of the House of Delegates on September 8, 1949.

Since 1949, however, sentiment within the ABA has changed. At the mid-year meeting of the House of Delegates on February 23, 1970, a proposal to reverse the 1949 position and to place the ABA on record in favor of the Genocide Convention failed by a vote of 126 to 130. Still more significant, every section of the ABA having specialized competence in the subject matter has come out in support of ratification of the Genocide Convention during the last few years: the Section of Individual Rights and Responsibilities, the Section of International and Comparative Law, the Section of Criminal Law, the Section of Judicial Administration, the Section of Family Law, and the ABA Standing Committee on World Order Under Law. Ratification of the Genocide Convention has also been endorsed by a number of past Presidents of the ABA, including Bernard G. Segal, William T Gossett, Charles S. Rhyne and Whitney North Seymour; by the Chairman of the ABA Standing Committee on the Federal Judiciary, Lawrence Walsh; by Solicitor General Erwin N. Griswold; and by many other leaders in the Association.

Notwithstanding these developments, two members of the ABA, Eberhard P. Deutsch and Alfred J. Schweppe, appeared on behalf of the Association to testify in opposition to the Genocide Convention in hearings held before a Senate Foreign Relations Subcommittee on March 10, 1971.[1] Mr Deutsch and Mr. Schweppe made a comprehensive presentation of all the legal objections that have been raised against the Convention.[2] The authors of this article, appearing on behalf of the Ad Hoc Committee on the Human Rights and Genocide Treaties (a committee of 52 national, civic, religious and labor organizations) presented testimony in favor of the Convention.[3] Thereafter the Foreign Relations Committee reported favorably on the Genocide Convention and recommended that the Senate advise and consent to ratification.[4]

After carefully reviewing the arguments presented by Mr. Deutsch and Mr. Schweppe the Committee concluded:

"We find no substantial merit in the arguments against the convention. Indeed, there is a note of fear behind most arguments—as if genocide were rampant in the United States and this Nation could not afford to have its actions examined by international organs—as if our Supreme Court would lose its collective mind and make of the treaty something it is not—as if we as a people don't trust ourselves and our society." [5]

We believe the report of the Senate Foreign Relations Committee provides an authoritative refutation of the legal arguments which opponents of the Genocide Convention have employed to justify their opposition for nearly a quarter of a century. Yet the Senate has still not yet acted favorably on the Convention. We present herein a point-by-point rebuttal of the legal arguments against the Convention, drawing from our testimony to the Foreign Relations Committee as well as the Committee's own report, in the hope that it may clarify the legal issues and contribute to speedy and favorable action by the Senate.

1. *The contention that the Constitution prevents ratification of the Genocide Convention because Genocide is a "domestic" matter is without foundation.*

In his testimony to the Foreign Relations Committee, Mr. Deutsch declared himself fully in agreement with the decision of the United States to vote in favor of the General Assembly resolution on Genocide of December 11, 1946: "Standing foremost as a world leader in the protection of individual rights, she could do no less." But he added that "having joined in such a declaration as to a matter *which lies, ultimately, within the domestic sphere of each of the world's nations*, the United States has gone far enough" (italics supplied).[6a] The underlined phrase is clearly incompatible with the statement in the General Assembly resoluiton that "genocide is a crime under international law." It is significant that Mr. Deutsch's extensive quotations from the General Assembly resolution neglected to include this key provision.[6b]

Nowhere in his testimony on the Genocide Convention does Mr. Deutsch explain his conclusion that Genocide is a "domestic matter." His reasoning on this general issue may be found, however, in a report which he prepared in 1967 as Chairman of the ABA's Standing Committee on Peace and Law Through the United Nations. It is there stated that a convention deals with "domestic matters" when it deals "with the relation between a state and its own citizens." [7] But this is not the relevant constitutional test. As the Supreme Court declared in *Geofroy v. Riggs* 133 U.S. 258, 267 (1890), the treaty-making power may be exercised on any matter "which is properly the subject of negotiation with a foreign country." The United States is party to numerous international agreements regulating the activities of its own citizens within the United States (and therefore "domestic" under Mr. Deutsch's definition) because those treaties nevertheless deal with matters appropriate for international negotiation. Examples include treaties on narcotics,[8] public health [9] and nature conservation,[10] and the Supplementary Convention on Slavery which Mr. Deutsch initially opposed on the grounds that it also dealt with "matters essentially within the domestic jurisdiction of the United States." [11]

In the words of the Special Committee of Lawyers of the President's Commission for the Observance of Human Rights Year, chaired by retired Supreme Court Justice Tom C. Clark: "Treaties which deal with the rights of individuals within their own countries as a matter of international concern may be a proper exercise of the treaty making power of the United States . . . It may seem almost anachronistic that this question continues to be raised." [12]

What is "properly the subject of negotiation with a foreign country" and therefore a valid subject of a treaty is something the Senate has an obligation to determine in each case. Obviously, we do not take the position that the Executive Branch can make any matter "international" by putting it in a treaty. But the question should be determined objectively in the light of current U.S. interest in an interdependent world—not on the basis of notions that may have been appropriate to a different historical era.

By any objective standard, Genocide is a matter of international concern and is, therefore, an appropriate subject for the exercise of the treaty-making power. In our shrinking world the massive destruction of a racial, religious or national group in one country has its impact on members of this group in other countries, stimulates demands for intervention, and inevitably troubles international relations. The fact that the United Nations General Assembly unanimously declared Genocide to be a crime under international law in 1949 and that 75 members of the United Nations are parties to the Genocide Convention (including such friends and democracies as the United Kingdom, Canada, France, Mexico, the Scandanavian countries and Israel) is further evidence that Genocide can no longer be considered a matter wholly within domestic jurisdiction. As was said by the Senate Foreign Relations Committee: "On both moral and practical grounds, the commission of genocide, involving as it must mass action, cannot help but be of concern to the community of nations." [13]

2. *The contention that the Genocide Convention would alter the balance of authority between the States and the Federal Government is unfounded.*[14]

The Constitution specifically gives Congress the power to "define and punish . . . offenses against the law of Nations." Genocide is an offense against the law of nations and is thus within the power of Congress to outlaw. Moreover, the power of the Federal Government in this field has been confirmed in the Civil Rights Acts of 1957 and 1964 and the Voting Rights Act of 1965. As the ABA Section on Individual Rights and Responsi-

Footnotes at end of article.

bilities said in its report: "Ratification of the Convention will add no powers to those the Federal Government already possesses."

3. *The contention that ratification of the Genocide Convention would subject American citizens to trial in foreign countries like North Viet Nam or trumped-up charges of Genocide is wholly false.*[15]

There is nothing in the Genocide Convention that would provide warrant for charges by North Viet Nam that our prisoners of war, being held under conditions in violation of the Geneva Convention, are guilty of Genocide. As the Foreign Relations Committee pointed out in its report, Hanoi can make trumped-up charges of Genocide against our servicemen who fall into their hands, with or without reference to the Genocide Convention. In the words of the Committee: "It is reality that American prisoners of war in North Viet Nam could now be charged by the Hanoi government for war crimes or genocidal acts on whatever trumped-up charges Hanoi wishes to make. Their peril will not be increased by approval of this convention while peril may be avoided for tens of millions by ratification of the convention." [16]

As to the possibility of extraditing Americans from the United States to North Viet Nam or other countries for acts of genocide allegedly having occurred there, it should be remembered that under the Genocide Convention, extradition would only take place in accordance with laws and treaties in force. We have no extradition treaties with North Viet Nam. Nor do we make such treaties with countries whose legal systems do not afford basic procedural safeguards. We do not grant extradition in any event unless a *prima facie* case is established against the accused and unless the accused will be afforded by the requesting state the due process provided by our own law. Finally, the Genocide Convention, in accordance with an agreed interpretation of Article VI which is contained in the relevant U.N. committee report, "does not affect the right of any State to bring to trial before its own tribunals any of its nationals for acts committed outside the State." [17] The Foreign Relations Committee expressed itself as fully satisfied on this point, but recommended an understanding to this effect to remove any possible uncertainty. The Administration has further indicated that any agreements we make covering Genocide will assert the right of the United States to refuse to extradite an accused if he is standing trial in the United States or if our Government elects to try him itself.[18]

4. *The argument that ratification of the Genocide Convention would subject the United States Government to irresponsible charges of Genocide arising out of Viet Nam, our treatment of American Negroes, or other situations is without foundation.*[19]

Here again, ratification of the Genocide Convention does not alter the present situation to our disadvantage. Even in the absence of our ratification, there is nothing to prevent a country from making baseless charges of genocide against this country in the U.N. If anything, ratification would improve our position, because the Convention requires an "intent to destroy, in whole or in part, a national, ethnical, racial or religious group as such." The tragic events in Viet Nam and the terrible loss of life, both military and civilian, that has occurred there do not meet the above definition. The treatment of the Negro community in the United States, which admittedly has suffered widespread discrimination for many years, also does not fall within the definition. In both cases the necessary intent to destroy a racial or ethnic group as such is missing. Ratification of the Convention would, if anything, help us rebut such charges by subjecting our behavior to a precise legal definition of Genocide.[20]

5. *The argument that provision for the settlement of disputes by the International Court of Justice would override the Connally Amendment and unreasonably limit our sovereignty is wtihout substance.*[21]

The Connally Amendment applies only to our acceptance of Article 36 (2) of the Court's Statute, the so-called "optional clause" providing for compulsory jurisdiction across-the-board. Cases arising as a result of our adherence to the Genocide Convention would come Article 36 (1) of the Court's Statute, which covers the Court's jurisdiction as provided for in specific treaties. The United States has ratified many treaties containing the same type of provision for the settlement of disputes by the International Court as is contained in the Genocide Convention. Among such treaties are the Supplementary Convention on Slavery, the Antarctic Treaty, the Statute of the International Atomic Energy, and the Convention on the Privileges and Immunities of the United Nations ratified in 1970.

This provision for the settlement of disputes over the interpretation of the Genocide Convention does not unreasonably limit our sovereignty. Our interests are better served by having any charges of Genocide against us considered in a judicial forum like the International Court, rather than in more politically-motivated forums. Of course, by this provision we do undertake a commitment to subject ourselves to third-party judgment in a limited sphere, as do the other parties to the Convention. This exchange of commitments is inherent in any treaty to which we become a party. Where the exchange of commitments serves our national interest, as it does here, it provides no valid basis for objecting to the treaty.

It should be noted that the Soviet Union and other countries have ratified the Convention subject to a reservation that they do not accept compulsory reference to the International Court. As a result, the United States will be in a position to invoke these countries' reservations in its own behalf to defeat the Court's jurisdiction if a case of Genocide should be brought against us by such countries.[22]

6. *The argument that various provisions in the Convention—"in whole or in part", "mental harm," "direct and public incitement to commit Genocide"—are loosely drafted and potentially harmful to our interests is without foundation.*

Words in a statute or treaty are not self-interpreting. They must be read in the context of other provisions and in the light of the legislative or drafting history. The hypothetical interpretations of the Genocide Convention advanced by the critics are invalidated by the language of the Convention itself and by the records of the negotiation.

Thus "in whole or in part" does not mean that the killing of a single individual becomes Genocide.[23] As the negotiating history makes clear, substantial numbers must be involved, and the acts of homicide must be joined by a common intent to destroy the group, for the definition of Genocide to be satisfied. The understanding recommended by the Foreign Relations Committee to confirm this point is wholly consistent with the drafting history.[24]

"Mental harm," in turn, would not support propaganda charges of harassment of minority groups, as charged by some critics,[25] because mental harm becomes an element of Genocide only when done with an intent to *destroy* a group. Moreover, as the negotiating history shows, this provision was inserted for the narrow purpose of prohibiting the permanent impairment of mental facilities, as through the forcible application of narcotic drugs. Once again, the understanding recommended by the Foreign Relations Committee is wholly consistent with the drafting history.[26]

"Direct and public incitement to commit Genocide" does not cover constitutionally-protected speech.[27] It covers speech which calls for the commission of mass murder, which is actionable under our Constitution as in other countries. As the Supreme Court declared in *Brandenburg v. Ohio*, 395 U.S. 444, "the constitutional guarantees of free speech and free press do not permit a State to forbid or proscribe advocacy of the use of force or of law violation *except where such advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action.*" (emphasis added). In any case, as was stated in *Reid v. Covert*, 354 U.S. 1, no treaty can override a provision of the Constitution, and there is no doubt that the legislation passed in implementing the Genocide Convention will be interpreted in accordance with the First Amendment.

7. *The contention that ratification of the Genocide Convention would subject American citizens to trial before an international penal tribunal is without foundation.*[28]

Article VI of the Convention provides that persons charged with Genocide shall be tried "by such international penal tribunal as may have jurisdiction with respect to those contracting parties which shall have accepted its jurisdiction." This part of Article VI is a dead letter. No such international penal tribunal has been established and there is no negotiation underway to create one. If such a tribunal were established, action by the Senate would be required, either in the form of advice and consent to ratification of a treaty or action on legislation, before the United States could accept its jurisdiction. Finally, it should be underlined that the International Court has no criminal or penal jurisdiction and only considers cases involving states, not individuals.[29]

8. *The argument that the Convention does not define Genocide as having been committed "with the complicity of government" is no objection to ratification.*[30]

The Convention is directed at "persons" whether they are "constitutionally responsible rulers, public officials or private individuals." Each government is committed under the Convention to punish such persons. There is no reason why individuals should not be held responsible for genocidal acts, even without government complicity.

9. *The argument that the Genocide Convention abolishes the defense of "superior orders" is without foundation.*[31]

The Soviet Union sought to include in the Genocide Convention a provision making the defense of superior orders unavailable. That Soviet proposal was rejected. The Convention says nothing about a possible defense of "superior orders," but it is significant that the Convention includes "intent" as an element of the crime of Genocide. Thus a subordinate who had no choice but to act would be protected under the Convention. An authoritative review of the drafting history on this point summarizes the matter as follows:

"Ordinarily it would seem that no intent could be ascribed to persons merely fulfilling superior orders; intent implies initiative. However, superior orders would not be a justification in such cases where the guilty party was not only a tool of his superiors but participated in the 'conspiracy to commit Genocide.' Guilt could likewise be established in a case where, although acting under orders, the person was in a position to use his own initiative and thus act with the intent to destroy the group. The non-inclusion of a proviso relating to superior orders thus leaves the tribunals applying the Convention the freedom of interpreting it in accordance with the domestic legislation and the specific circumstances of the case." [32]

10. *The argument that the omission of "political" groups makes the Genocide Convention worthless is unpersuasive.*[33]

It is inconsistent for those who criticize the Convention on the grounds that it sub-

Footnotes at end of article.

jects the U.S. to too much interference in its domestic affairs to complain at the same time that it fails to cover "political groups." In any event, the absence of one kind of group from the Convention is no reason not to protect the groups that *are* covered.

In conclusion, we find the objections against ratification of the Genocide Convention to be without substance. The arguments in favor of ratification, on the other hand, seem to us compelling.

Our adherence to the Genocide Convention can make a practical contribution to the long and difficult process of building a structure of international law based on principles of human dignity. It will put us in a better position to protest acts of Genocide in other parts of the world and will enhance our influence in United Nations efforts to draft satisfactory human rights principles.

We do not say that our adherence to this Convention will work miracles. It may not bring very dramatic benefits in the short run. Let us remember, however, that none of the great documents of human civilization produced instant morality—not even Magna Carta or our own Bill of Rights. The point is that they did shape history in the long run. We believe the same may be true of the Genocide Convention, if we only give it a chance.

The Genocide Convention outlaws action that is repugnant to the American people. We should not decline to affirm our support for principles of international law and morality which we believe in. Our country was founded out of a passionate concern for human liberty reflected by the Bill of Rights and the Constitution. We believe that concern is very much alive today, as is reflected by the report of the Foreign Relations Committee supporting the Convention. It is inconceivable that we should hesitate any longer in making an international commitment against mass murder. At the time when our commitment to human rights is being questioned by some of our own people and by others overseas, it is particularly important that we ratify a treaty so thoroughly consistent with our national purpose.

(AUTHOR'S NOTE.—Arthur J. Goldberg served as Secretary of Labor from 1961 to 1963, Justice of the Supreme Court from 1963 to 1965, and U.S. Ambassador to the United Nations from 1965 to 1968. He is now in the private practice of law in Washington.

(Richard N. Gardner is Henry L. Moses Professor of Law and International Organization at Columbia University. He served as Deputy Assistant Secretary of State for International Affairs from 1961 to 1965.

(Justice Goldberg and Professor Gardner appeared on behalf of the Ad Hoc Committee on the Human Rights and Genocide Treaties in last year's hearings on the Genocide Convention before the Senate Foreign Relations Committee.)

FOOTNOTES

* See author's note at end of this article.

[1] Article 12, Section 1 of the By-laws of the ABA provides: "No section or Committee or member thereof shall assume to represent the Association or Committee thereof before any legislative body in any court or before any other tribunal, unless authorized to do so by the House of Delegates or by the Board of Governors." Mr. Deutsch stated at the Foreign Relations Committee that this authority to appear derived from a decision of the Board of Governors. See *Genocide Convention*, Hearings before a Subcommittee of the Committee on Foreign Relations, U.S. Senate, March 10, 1971, p. 13 (hereinafter cited as 1971 Hearings). In fact, neither at the 1970 mid-year meeting or thereafter did the Board of Governors or the House of Delegates authorize anyone to represent the ABA regarding the February 1970 action. The President of the Association, Mr. Edward Wright, later explained that he authorized Mr. Deutsch and Mr. Schweppe to appear without any authority from the Board of Governors or House of Delegates under the President's "inherent power to designate a member or members of the Association to present its views before a legislative body where the House of Delegates has formerly spoken on the subject." (1971 Hearings, pages 14–15). We do not enter into the issue of whether this inherent power exists, and we certainly do not question the good faith of President Wright's interpretation. But given the almost evenly divided vote in the House of Delegates and the support of the Convention from all the relevant specialized Sections and Committees of the ABA, we believe it would have been more appropriate for the ABA to have refrained from testifying on the Convention, or to have sent a panel of spokesmen to present a balanced picture of the different viewpoints now existing in the Association.

[2] 1971 Hearings, pp. 12–54. Mr. Deutsch's testimony was virtually identical to his article with Orie L. Phillips, "Pitfalls of the Genocide Convention," 56 *ABA Journal* 641–646 (July, 1970).

[3] 1971 Hearings, pp. 107–137.

[4] The Committee's decision was taken by a vote of 10 to 4. Voting in the affirmative were Senators Fulbright, Church, Symington, Pell, McGee, Muskie, Spong, Case, Javits, and Scott. Voting in the negative were Senators Sparkman, Aiken, Cooper, and Pearson. *International Convention on the Prevention and Punishment of the Crime of Genocide*, Ex. Report No. 92–6, May 4, 1971 (hereinafter cited as Senate Report).

[5] Id., p. 17.

[6a] 1971 Hearings, pp. 25, 26.

[6b] Id., pp. 16 and 25.

[7] Human Rights Conventions, Hearings before the Committee on Foreign Relations of the U.S. Senate, Part 2, September 13, 1967, p. 70.

[8] 1912 Convention Relating to the Suppression of the Abuse of Opium and Other Drugs (TS 612); 1931 Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs (TS 863); 1953 Protocol for Limiting and Regulating the Cultivation of the Poppy Plan, the Production of, the International and Wholesale Trade In, and the Use of Opium (TIAS 5273).

[9] World Health Organization Regulations No. 1 (TIAS 3482), as amended (TIAS 3482 and 4409) and WHO Regulations No. 2 (TIAS 3625), as amended (TIAS 5156, 4420, 4823, 4896, 5459, and 5863).

[10] 1940 Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere (TS 981).

[11] ABA, *Human Rights Conventions and Recommendations*, Draft of Proposed Report for Consideration by Section and Committee, April, 1967. This report was drafted by the Committee on Peace and Law Through the United Nations chaired by Mr. Deutsch.

[12] For another example of confusion over the relevant constitutional test, see John M. Raymond, "Don't Ratify the Human Rights Conventions," 54 *ABA Journal* 141–143. Mr. Raymond, evidently unaware of the treaty cited in footnote 10 above, takes the view that the United States can make treaties on the protection of wildlife only when birds fly from one country to another.

[13] Senate Report, p. 5.

[14] This contention appears in appendix to Mr. Schweppe's statement to the Committee, 1971 Hearings, page 71, though not in Mr. Deutsch's testimony.

[15] This contention appears in the testimony of Mr. Deutsch, 1971 Hearings, pp. 20, 37–39.

[16] Senate Report, p. 5.

[17] See Nehemiah Robinson, *The Genocide Convention—a Commentary*, World Jewish Congress, 1960, pp. 83–4, containing citations to the drafting history on this point.

[18] Testimony of Mr. George Aldrich, Deputy Legal Adviser, Department of State, in *Genocide Convention*, Hearings Before a Sub-committee of the Committee on Foreign Relations, U.S. Senate, April and May, 1970, pp. 45–46.

[19] This argument is made by Mr. Deutsch in 1971 Hearings, pp. 18, 31–33.

[20] Senate Report, p. 12.

[21] This argument is made in Mr. Deutsch's testimony, 1971 Hearings, pp. 22, 46.

[22] Senate Report, p. 13.

[23] This claim was made by Mr. Schweppe, 1971 Hearings, p. 61.

[24] Senate Report, pp. 1, 6, 18; Robinson, op. cit., 63.

[25] Mr. Deutsch, 1971 Hearings, pp. 18–19, 33–34.

[26] Senate Report, pp. 2, 7, 18; Robinson, p. 65.

[27] As charged by Mr. Deutsch, 1971 Hearings, p. 45.

[28] The contention was made by Mr. Deutsch, 1971 Hearings, pp. 21, 40–45.

[29] One of the exhibits submitted by Mr. Deutsch stated incorrectly that under the Genocide Convention, the "U.N. World Court" would "hear cases of alleged incidents of physical or mental 'genocide' committed by individuals. . . . The accused in such cases would not be protected by the Bill of Rights." 1971 Hearings, p. 50.

[30] This argument is advanced by Mr. Deutsch in 1971 Hearings, pp. 17–18, 30–31.

[31] Mr. Deutsch makes this argument in 1971 Hearings, pp. 39–40.

[32] Robinson, pp. 72–3.

[33] This argument is made by Mr. Deutsch in 1971 Hearings, pp. 19, 35–36.

SPEEDUP OF JUDICIAL PROCEDURES

Mr. TOWER. Mr. President, recently the Texas Police Journal published a most interesting article by the Deputy Attorney General, Richard G. Kleindienst. In the article, entitled "Toward Speedy Justice," Mr. Kleindienst addresses himself to one of the most pressing problems in criminal law: How can we speed up the judicial process, with its nearly interminable backlogs, while still preserving constitutional guarantees. I believe that all who are concerned with this problem will benefit from Mr. Kleindienst's insight. The article is particularly timely, since Mr. Kleindienst has just been appointed Attorney General by the President.

I ask unanimous consent that the entire text of Mr. Kleindienst's article be printed in the RECORD.

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

[From the Texas Police Journal, Feb. 1972]

TOWARD SPEEDY JUSTICE

(By U.S. Deputy Attorney General Richard G. Kleindienst)

Speedy justice is fast becoming one of the major subjects of concern to students of criminal justice in the United States.

Massive backlogs in our courts and long delays in the trial and appeal of criminal cases have awakened a sense of urgency in the American public. The realization that delays impose a burden not only upon individual defendants but also upon society has provided the stimulus for needed reforms.

What these reforms should be remains an open question. But few persons now doubt that reforms are necessary. When many months and sometimes several years elapse between a defendant's arrest and trial—a fact of life in numerous jurisdictions throughout the country—one finds it difficult to give unqualified endorsement to the view that "Justice is alive and well and living in the United States."

In recent years, federal courts have been faced with a huge expansion in the number of civil and criminal cases. This great volume of litigation has produced backlogs and delays in many judicial districts in the federal system.

Two obvious solutions to this growing

workload are to increase the output and efficiency of existing personnel, and to increase manpower. Both of these approaches have been pursued.

In the District of Columbia, for example, the Department of Justice sponsored legislation to reorganize and reform the local courts. Among other things, the D.C. Court Reform Act featured a court executive to relieve judges of administrative burdens and bring modern management techniques to the court's business. The legislation also authorized 17 additional trial judges by February 1, 1972, to contend with backlogs and new jurisdiction.

Chief Justice Warren Burger has taken the lead in promoting improved judicial administration in other parts of the federal system. He has often suggested the use of court administrators and other methods of efficient management. Judge Irving R. Kaufman of the U.S. Court of Appeals, Second Circuit, noted recently that "a well-trained para-professional will cope with calendar control, not merely as well, but perhaps better than a judge who is highly trained to apply and interpret the law, but not trained to employ flow charts or systems analyses to eliminate bottlenecks."

The Judicial Conference, with support from the Department of Justice, has played a key role in securing additional manpower. For years the Conference has advocated more trial and appellate judges. In response to a Judicial Conference initiative, Congress in 1970 created 61 new judgeships in U.S. district courts.

These efforts must go forward. For our part, the Department of Justice will back judicial innovations and additional judgeships when the need for them is demonstrated. And our support for increased manpower and resources will extend to additional prosecutors and public defenders wherever they are needed. Adequate staffing of the entire system of criminal justice is essential.

But the Department of Justice agrees with President Nixon's observation: "If we limit ourselves to calling for more judges, more police, more lawyers operating in the same system, we will produce more backlogs, more delays, more litigation, more jails, and more criminals."

"What is needed now," the President has said, "is genuine reform—the kind of change that requires imagination and daring, that demands a focus on ultimate goals. . . ."

In the search for speedy justice, we must look beyond additional manpower and resources. We must ask ourselves whether all the cases now processed in federal courts should continue to be entertained. Are there some disputes that could better be resolved in a different forum? Are there cases that are simply a rehash of cases already tried?

The answer to both questions is clearly "yes."

The increasing use of U.S. magistrates for minor disputes reflects a desire to preserve the time of U.S. district judges for important matters. It may be possible in the future not only to extend the jurisdiction of magistrates but also to remove certain cases from federal courts.

This latter course is sharply controversial. Chief Justice Burger has been roasted by some members of the bar merely for considering the possibility that personal injury cases be made an exception to federal diversity jurisdiction.

But in view of our present difficulties, recriminations are out of order.

Genuine reform requires both thinking. Although not every idea put forward should be adopted, we should recognize that the jurisdiction of federal district courts is not divinely ordained, and thus suggestions for its revision are entirely appropriate. The legal profession is mature enough to debate these suggestions on the merits without rancor.

Excessive relitigation is another problem deserving careful study. The statistics on the number of post-conviction collateral attacks are striking. Twenty years ago, federal courts entertained about 500 petitions for habeas corpus. By 1960, these petitions had tripled. By 1970, the total had reached the amazing figure of 10,792.

The vast majority of these petitions are utterly frivolous and without merit. They tend to deprive criminal justice of finality. undermine the rehabilitative process, and imperil public confidence in the courts. It is surely possible for lawmakers to curtail collateral attacks in the federal system while preserving fairness, because current practice is neither required by the Constitution nor fully contemplated by statutory law.

The Department of Justice is presently considering measures to revise post-conviction, post-appeal remedies to reintroduce finality to the administration of criminal justice. Reform of habeas corpus will materially aid the cause of speedy justice in federal courts.

One source of future congestion which perhaps requires legislative action is the case of U.S. ex rel. *Flemings* v. *Chafee,* decided last July in the eastern district of New York. In *Flemings* the court ruled that a 1969 Supreme Court decision barring military courts-martial for servicemen charged with civilian offenses, should be applied retroactively to the 1944 court-martial conviction of a seaman for auto theft. In effect, the decision opens the way for an estimated 450,000 similar suits in federal courts.

Henceforward, both judges and lawmakers must weigh the impact of their activities on the operation of federal courts.

At present, the Department of Justice is reviewing several bills that could vastly increase the workload of the judiciary. The heavy impact of these bills on the courts should not necessarily bar their passage; but lawmakers who propose new remedies should begin to think in terms of providing other means to afford redress. When court relief appears indispensable, then it may be necessary to supplement judicial resources.

The huge expansion in the civil and criminal caseload is only half the problem facing courts today. Chief Justice Burger noted last year that the actual trial of a criminal case now takes twice as long as it did ten years ago because of the closer scrutiny we expect for such things as confessions, identification witnesses and evidence seized.

"These changes," he said, "represent a deliberate commitment on our part . . . to values higher than pure efficiency when we are dealing with human liberty."

Criminal adjudication will never be a completely efficient process. But there is good reason to believe that it can become a more efficient process than it is now, without losing anything that is worth keeping. Genuine reform of the judicial process necessitates an open-minded review of existing procedures to determine their utility in the light of changed conditions.

Pretrial hearings in criminal cases now eat up a substantial percentage of court time. Indeed, it is not unusual for a pretrial motion to suppress tangible evidence, eyewitness identification, or a defendant's confession to consume as much court time as the trial itself. At most of these hearings, the fighting issue concerns the conduct of investigating officers, not the innocence of the defendant.

Many proponents of speedy justice now believe it is time to look long and hard at the exclusionary rule as a major source of the congestion problem. Chief Justice Burger argued recently. "Instead of continuing to enforce the Suppression Doctrine, inflexibly, rigidly, and mechanically, we should view it as one of the experimental steps in the great tradition of the Common Law and acknowledge its shortcomings."

Other remedies for governmental overreaching and official misconduct can be devised, and they may prove to be far superior deterrents to constitutional violations than the exclusionary rule has been, without monopolizing court time.

Even if the substance of pretrial motion practice is not changed, the scheduling of pretrial hearings can often be substantially improved. As a rule, suppression hearings immediately prior to trial avoid repeated preparation, ease the burden on witnesses, and reduce paperwork.

This year's national high school debate topic highlights change in the jury system. Young people by the thousands are vigorously debating propositions for "reform" that few attorneys would have the courage to propose in public. The bar should take heed: While the jury system is surely worth preserving in large measure, it is not immune to significant improvement.

Attorney Edward Bennett Williams has zeroed in on the grand jury and voir dire as jury institutions ripe for reform. Mandatory indictment by a grand jury in felony cases, he says, is "an outmoded, archaic fetish of yesteryear." Many critics believe that a clear information followed by a quick trial, supplemented in cases of detention by a probable cause hearing, would save time, reduce scheduling problems and fully protect the interests of defendants.

Voir dire, Williams declares, can be "the judicial counterpart of the legislative filibuster." Although one might not agree literally with his view that "no case . . . should require more than a day of jury selection," it is hard for any serious member of the bar to condone the 12 weeks of voir dire that we have seen in some recent cases. Such abuse of procedure should not be permitted.

Other changes have been suggested that could streamline judicial procedure. The Judicial Conference has voted in principle to reduce the size of federal juries in civil cases. During its present term, the Supreme Court will review the constitutionality of nonunanimous verdicts. Six-man juries and nonunanimous verdicts have been utilized extensively in civil cases in the states, and this experience should afford a reasonable basis for determining their desirability for the federal system.

No facet of current procedure should escape scrutiny if we are truly sincere about attaining speedy justice. The basic axiom that "institutions long established should not be changed for light and transient causes" does not mean that institutions and procedures should never be changed.

One of the most popular proposals nowadays for promoting speedy trials is a mandatory time limit enforced by dismissals with prejudice. Some of these varying time limits encompass as little as 60 days. From the start, the Department of Justice has viewed these proposals with skepticism and trepidation.

The recent experience in Florida provides ample basis for this concern. Last winter the Florida Supreme Court promulgated a rule providing all defendants who request it a trial within 60 days. In short order, trial courts found they were incapable of meeting this stringent deadline, and several hundred cases were dismissed. One judge felt compelled to urge the U.S. Supreme Court to "stop the Supreme Court of Florida from wholesale dismissal of defendants."

Short mandatory time limits which dismiss cases against the prosecution but allow delays for the defense will inevitably reward defendants who have not been prejudiced by delay and undercut the public interest in convicting the guilty. They could adversely affect the plea bargaining process and substantially increase demands for jury trials. We do not believe it is desirable public pol-

icy to dismiss serious criminal cases because a defendant has not been tried within a reasonable period of time, when no prejudice to the defendant has been shown, no malfeasance on the part of the prosecution can be demonstrated, and the time period involved is considerably shorter than that allowed by the Constitution.

To the extent that mandatory time limits become the subject of experimentation, relatively flexible court rules are preferable to relatively inflexible statutory commands. The Florida experience points up the desirability of a flexible approach, permitting retrenchment in the event of emergency. The Judicial Conference followed this course at its October meeting by encouraging court rules that may vary from district to district, depending on circumstances.

These ideas for improving the federal judicial system are not offered as a detailed blueprint for reform. Rather, they are meant to suggest the immense scope, difficulty, and controversy of the task before us.

There is no easy formula for speedy justice.

HELP YOUNG AMERICA WEEK

Mr. GRAVEL. Mr. President, in Alaska the week of February 21–27, 1972, has been set aside by Gov. William A. Egan as Help Young America Week. I know that Senators will want to join with me in the observance of this event, which will help five of America's leading youth groups—the Boy Scouts of America, Girl Scouts of the U.S.A., Boys' Clubs of America, Girls' Clubs of America, and the Camp Fire Girls—reach their current goals.

I ask unanimous consent that the Governor's proclamation be printed in the RECORD.

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

PROCLAMATION—HELP YOUNG AMERICA

A National help Young America program has been launched as a major campaign to help five of America's leading youth groups reach their current goals.

The Boy Scouts of America, Girl Scouts of the U.S.A., Boys' Clubs of America, Girls' Clubs of America, and the Camp Fire Girls will share in a quarter-million-dollar Help Young America Fund following a national vote to be conducted in early 1972. These groups have a combined membership of more than nine million.

The Help Young America Program marks the first time that these five leading youth groups have united in a single youth promotion campaign, and it initiates a unique, cooperative effort between American business and American youth. The goals of the Help Young America Program are to help our young people to help themselves and to bring their needs and aims to the attention of all America.

The Help Young America Program will be officially launched in Alaska during the week of February 21, and it is fitting that recognition be given by the general public to this week.

Therefore, I, William A. Egan, Governor of Alaska, do hereby proclaim the week of February 21–27, 1972, as Help Young America Week in Alaska and urge that appropriate programs be observed by all citizens of Alaska.

RADIO FREE EUROPE AND RADIO LIBERTY

Mr. PERCY. Mr. President, I should like to comment on some of the points recently made on the floor of the Senate in connection with the legislation to provide financial support to Radio Free Europe and Radio Liberty.

First of all, let me say that we must approach this issue in terms of the present situation, not in terms of the past. The distinguished senior Senator from New Jersey called for the termination of CIA support to the two radio stations a year ago, and this support has been terminated. That is no longer the issue.

The question today is whether these radio stations play a useful role and whether their operations are compatible with the objectives of U.S. foreign policy. The distinguished chairman of the Committee on Foreign Relations (Mr. FULBRIGHT) is quite correct to pose this question.

I believe we must take a close look at our foreign policy interests. These are not fixed in concrete, fortunately. We have all of us been fascinated in recent days with the televised evidence from China that our foreign policy is open to significant movement. We are looking in some new directions across the Pacific; and within months we hope to see further movement toward the long-sought goals of greater stability and security in Europe. This is a time of hope and of change, but it is not yet a time of concrete achievement. Until the results of these bold and hopeful moves can be assessed, it would be unwise, I believe, to discard assets which are of great value and cannot be easily reconstructed if abandoned at this time.

Also, we should look to the interests of those nations with whom we work most closely in our search for greater security in Europe. It is not their view that this is the proper moment to silence the principal free and uncensored voices which are heard in Eastern Europe and the Soviet Union on the side of freedom, liberalization, and evolution within these societies. European observers who are closer than many of us to the studios of Radio Free Europe and Radio Liberty in Germany sharply defend the relevance of their programing. In the last few days, when the possible termination of the stations has been advocated here, several prominent German papers have commented, including Frankfurter Allgemeine Zeitung, which asserted on February 19 that——

. . . In Bonn, no one doubts the elementary function which the radio station (Radio Free Europe) has for the population of the Eastern European countries.

Hannoversche Allgemeine Zeitung wrote this past weekend that:

In this era of detente, it is all the more important that the voice of free opinion is not silenced. For what has begun now is a quiet struggle for the intellectual orientation of people in all of Europe. Communist propaganda does not know peaceful co-existence. It will continue its running fire. We must counter at least with objective information.

These are just two evidences of concern in Europe lest we dispose of these valuable facilities. They confirm my own direct impressions gained by visiting Radio Free Europe in Munich and participating in its broadcasts to Eastern Europe.

Finally, I cannot close without reference to the interests of the peoples of Eastern Europe and the Soviet Union which coincide closely with our own. They wish a secure Europe as we do, a Europe in which tensions have abated and armaments have been reduced, a Europe which has fewer barriers to the movement of people and the transmission of ideas. Until the governments of the area permit and encourage this fine flow, these two radio stations play an important role.

Boris Tsukerman, a Soviet physicist who left the U.S.S.R. in 1971 for Israel, wrote why he listened to Radio Liberty:

In the U.S.S.R. there is a genuine need for information which cannot be gleaned from the official press and radio. The government knows of this need and tried to some extent to fill it through the so-called "White TASS," which reprints more topical reports from the foreign press. However, this publication is accessible only to a small fraction of top officials. The rest have to seek other possibilities.

Mr. President, I believe that the bill passed by the House of Representatives amending the bill passed by the Senate has merit and would provide us with a good means of reaching a year from now a more carefully considered decision than we can take now. Let me say also that I believe we should avoid subordinating the two radio stations to the Department of State. These two stations have built their reputations as independent broadcasters largely because they have not had to reflect on a daily basis the requirements of the diplomatic position of the United States. They are not another Voice of America, and we should not treat them as official broadcasters representing American foreign policy.

So long as Radio Free Europe and Radio Liberty maintain programs of objective news and responsible commentary, I believe they should be supported. They serve to show the peoples who do not have the benefit of a free press that we are concerned about them and their opinion. They serve to keep alive in many countries the hope that freedom may some day be attained.

RULES OF COMMITTEE ON APPROPRIATIONS

Mr. ELLENDER. Mr. President, pursuant to section 133(b) of the Legislative Reorganization Act of 1946, as amended, I ask unanimous consent that the text of the committee rules be printed in the RECORD.

There being no objection, the rules were ordered to be printed in the RECORD, as follows:

RULES GOVERNING THE PROCEDURE OF THE SENATE COMMITTEE ON APPROPRIATIONS, ADOPTED PURSUANT TO SECTION 133(b) OF THE LEGISLATIVE REORGANIZATION ACT OF 1946, AS AMENDED

1. MEETINGS

The Committee will meet at the call of the Chairman.

2. QUORUM

(a) *Reporting a bill.* A majority of the members must be present for the reporting of a bill.

(b) *Other business.* For the purpose of

transacting business other than reporting a bill or taking testimony, one-third of the members of the Committee shall constitute a quorum.

(c) *Taking testimony.* For the purpose of taking testimony, other than sworn testimony, by the Committee or any subcommittee, one member of the Committee or subcommittee shall constitute a quorum. For the purpose of taking sworn testimony by the Committee three members shall constitute a quorum, and for the taking of sworn testimony by any subcommittee one member shall constitute a quorum.

(d) *Ex officio members.* In determining if a quorum is present ex officio members appointed pursuant to paragraph 6 of Rule XVI of the Standing Rules of the Senate shall not be considered.

3. PROXIES

Votes may be cast by proxy when any member so requests.

4. ATTENDANCE OF STAFF MEMBERS AT EXECUTIVE SESSIONS

Attendance of Staff Members at Executive Sessions of the Committee shall be limited to those members of the Committee Staff that have a responsibility associated with the matter being considered at such meeting. This rule may be waived by unanimous consent.

5. BROADCASTING AND PHOTOGRAPHING OF COMMITTEE HEARING

The Committee or any of its subcommittees may permit the photographing and broadcast of open hearings by television and/or radio.

6. AVAILABILITY OF SUBCOMMITTEE REPORTS

When the bill and report of any subcommittee is available, they shall be furnished to each member of the Committee twenty-four hours prior to the Committee's consideration of said bill and report.

7. POINTS OF ORDER

Any member or ex officio member of the Committee who has in charge an appropriation bill, is hereby authorized and directed to make points of order against any amendment offered in violation of the Senate rules on the floor of the Senate to such appropriation bill.

RATE INCREASES BY PUBLIC UTILITIES

Mr. HARRIS. Mr. President, the Price Commission began a series of hearings today on rate increases by public utilities. This is a matter of growing concern to the average American for, as the Commission noted when it called the hearings, 40 percent of the public's complaints have involved utility rates. I ask unanimous consent that the text of my testimony before the Commission this morning be printed in the RECORD.

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

TESTIMONY OF SENATOR FRED R. HARRIS

As the Commission begins its first round of public hearings on a major issue before it, it is faced with one overwhelming fact: the average American just doesn't think wage and price controls are being administered fairly. A poll recently commissioned by The Wall Street Journal reported that 55% of the American people feel that the price controls are not fair across the board, while 56% held the same view of the wage controls. This is why the issue facing us today is not only fair regulation of utilities but the overall fairness of the entire Phase II program.

There are some worrisome questions of propriety. Judge Boldt, the chairman of the Pay Board, was wined and dined in New York by an executive of General Electric. No one objects to the designated representatives of business and labor retaining their ties to their home organizations. But people are understandably disturbed to see *public* members of the Pay Board like Neil Jacoby of Occidental Petroleum retain their seats on the boards of directors of giant corporations.

People worry, too, about the possibility of a kind of socialism from the right, allowing profits to rise while controlling wages. In its February 16 issue, The Gallagher President's Report, a business newsletter, told corporate executives that for the "first time in 25 years company presidents gain [the] upper hand over unions. Reversal of roles facilitated by 1) Nixon Administration's program of wage/price controls; 2) increased automation by private sector; 3) high rate of unemployment; 4) continued plant closings, worker layoffs."

The results of the wage and price control program are pro big business. First, the rules are so complicated the ordinary person simply cannot participate in enforcing them. Arthur Okun, former chairman of the President's Council of Economic Advisors, has said, "On the price side, the thing is 99% Rube Goldberg. . . . There is enough elasticity for a good lawyer and accountant to get whatever a company wants from the Price Commission." The Commission's own figures indicate it has granted 95% of the requests for price increases which it has decided.

The weighted average of wage increases approved by the Pay Board was 5.67% as of February 4, according to its own figures, within a fraction of a percent of its goal of holding increases to 5.5%, while the Wall Street Journal reports that "most analysts expect an actual increase in pretax profits of about 15%" this year.

Take the example of steel, which is a classic shared monopoly with the power to raise prices regardless of the state of the market. As a result, American steel is dangerously overpriced, under pressure from foreign imports, and operating at about 50% of capacity. The last thing this industry, and its 100,000 laid off workers, needs is another price increase.

Yet, at the beginning of Phase II the steel companies applied to the Price Commission for a price increase. The Commission gave the industry an across the board price rise of 3.6%, which each company could allocate to each product line as it wished. Typically, virtually the entire increase went into product lines in which the companies face little competition. Prices for cold roll steel—that used to make cars, refrigerators, and such—went up by 7.2%, double the across the board rate approved by the Commission. On the other hand, the prices for structural steel—that used for buildings and bridges—didn't go up at all. It seems that it is in structural steel that American companies face stiff competition.

Thus, we find that even under wage and price controls, big steel companies can raise their prices at an inflationary rate when they have the market power to do it. And the Price Commission has not stopped them.

So far, the New Economic Program has helped to preserve the old mal-distribution of income. The working poor and the aerospace worker and the consumer are asked to sacrifice, while General Motors is allowed to maintain its monopoly rate of profit of 20% of its stockholders investment. The new Chairman of the Board, of GM, Richard Gerstenberg, doesn't have to worry about losing an expected raise, when he starts out with an income of over $800,000.

An anonymous White House official told the New York Times last month, "Equity in this program means that we preserve the real economic relationship of all participants at a lower level of inflation . . . Social justice is not a panacea for the world's problems."

This is the context in which we must consider today an appropriate policy for controlling rate increases by public utilities. People are concerned about the fairness of controls. This is especially true in case of utility rates. As the Chairman noted when he called these hearings, 40% of the public's complaints to the Price Commission have involved utilities.

Whatever the changes in the wording of the rules and regulations over the last several months, the Commission's policy of leaving the bulk of responsibility for controlling inflation in the utility industry to the existing regulatory agencies essentially meant decontrolled utilities. As Senator Lee Metcalf of Montana has said, "Anyone who has any experience in public utility regulation knows that state regulatory agencies, for the most part, are dominated by the businesses they regulate, because of the inequities in regulatory procedures. The commissions have neither the resources, staffing, nor inclination to generate an aggressive testing of the evidence produced by the companies. To rest with these agencies the additional role of enforcing a coordinated, national economic policy installs the rabbits as guardians of the public's lettuce."

The inequitable procedures Senator Metcalf mentions are compounded in Phase II by the fact that consumers are not allowed to participate in an adversary proceeding before the Price Commission on utility rates and cannot appeal its rulings in court.

The most important factor to consider, however, in setting a pricing policy for utilities is how enormously profitable these companies are right now. In 1970, the average return on stockholders investment in the 184 biggest electric power companies was 11.33%. That's about twice the rate of profits of firms in a competitive industry. And of course there is virtually no risk in investing in utilities—they provide a necessity to a captive market. The fact is that many, perhaps most, of the public utilities in this country are overcharging their customers right now. An anti-inflationary pricing policy would require them to lower their rates, not raise them.

Yet during the year that ended September 30, 1971, the state regulatory agencies granted increases totaling $1 billion to electric power companies alone, according to the Federal Power Commission. At the same time there was another $1.2 billion in rate requests from electric power companies pending before state agencies. When you add in gas pipeline requests pending before the FPC, and telephone company rate increases pending before the Federal Communications Commission and the state agencies, the total is well over $3 billion.

With this kind of potential for driving up the cost of living in the hands of utilities, the Price Commission's past policies in this area are indeed discouraging. On November 29 of last year, when the Commission took its first step toward laying down some guidelines for the state regulatory agencies to follow in considering rate increases, it said that productivity gains by utilities had to be passed on to consumers. In a press release of that date, the Commission said that state and federal regulatory agencies must certify to the Commission that any rate increase which they granted must, among other things be "reduced to reflect productivity gains." This guideline was quite significant since productivity has traditionally risen faster in the utility field, especially in electric power, than in others. According to the studies of productivity expert John W. Kendrick at the George Washington University, productivity in the electric power field has been twice that in the economy as a whole. While the size of the gains has decreased in recent years, according to Professor Kendrick, power companies still out pace other industries. It was therefore encouraging to see the Price Com-

mission take this factor into account when it announced its guidelines for the existing regulatory agencies. In its November 29 press release, the Commission noted that "this policy will be printed in a few days in the Federal Register."

However, when the policy was finally printed in the Federal Register on January 14, 1972, all mention of passing on productivity gains to the consumer had been removed. From an Administration so concerned about increasing productivity that its officials insist on lecturing people about it at every opportunity, we have heard nothing about productivity in the utility field since that press release of November 29. All the other guidelines mentioned in that press release were carried in the regulations issued January 14. But not those on cutting back utility rate increases.

In any case those are past mistakes. What's to be done now? I propose that the Commission reject the myth that the existing regulator agencies can do the job by themselves. What the state and federal agencies need is some firm and detailed directives from the Price Commission and the knowledge that if they deviate from those directives their decisions will be overturned. People have a right to expect that the Price Commission will put a stop to skyrocketing utility rates.

That means:

(1) The Commission must set a fair return on the stockholder's equity to guide the regulatory agencies in setting the utilities' rates of return. The rate of return, as the phase is commonly used in utility regulation, is a lot of hocus pocus that hides the stockholder's profits. It's what the stockholders get—the return on equity—that really counts; and that's what the Price Commission must set some limit on. There is no reason why owners of a no risk monopoly should earn twice the rate of profit of a small businessman in a competitive market. It's not fair to the small businessman; it's not fair to the consumer, and it drives up the cost of living.

(2) The Commission must make sure that as interest rates go down for utilities, those savings are passed on to consumers. In recent months interest rates on high grade utility bonds have dropped from 9.1% to 7.5%, and they will probably go lower. Requests for rate increases submitted before interest rates fell must be adjusted accordingly.

(3) The Commission must require that lower taxes on utilities resulting from the Revenue Act of 1971 be passed on to their customers. The utilities got its own benefits out of that corporate tax giveaway plan, including liberalized depreciation rules and an increase in their investment tax credit from 3% to 4%.

The consumer should realize all those savings.

(4) The Commission must reinstate the requirement mentioned in that November 29 press release—productivity gains must be passed on to the consumer. If, as President Nixon believes, the long-term solution to inflation is increased productivity, there is no better place to begin than in the public utility field.

(5) The Commission should require the existing regulatory agencies to use the maximum suspension periods allowed for rate increase requests. Every day that a regulatory agency puts off a rate increase by suspending it, it is fighting the "inflation psychology" that the President has called attention to.

(6) The Commission should outlaw the "fair value" standard of evaluating a utility's rate base. Since the utilities are allowed to earn a profit on every bit of their plant and facilities that they can convince the regulatory agency to include in their rate base, what is included and what value is assigned to each item can mean a lot to the consumer in dollars and cents. In over a dozen states, regulatory agencies are allowed to assign a "fair value" to each piece of the company's property regardless of what it actually cost to build. This practice inflates the size of the rate base, the utility's profits and, finally, the rates the consumer pays. The Commission should simply outlaw the "fair value" standard and require that all plants and facilities be valued according to what it actually cost to build them. Such a policy can only lead to lower rates.

(7) The Commission must continue its requirement, included in its January 14 set of regulations, prohibiting regulatory agencies from granting increases which "reflect further inflationary expectations."

(8) Finally, the Commission must be willing to roll back utility rates that are already too high. We are never going to beat inflation so long as prices can only go up; some prices must come down and public utility rates are mighty deserving candidates for that honor. Especially in an industry with rapidly rising productivity, the Price Commission must be ready to force prices down where necessary.

The facts are simple. The ordinary American doesn't think the wage and price controls are fair. He thinks big business is getting a better break under Phase II than he and his family are getting. And he wants things evened up.

Getting tough with rising utility rates is a good place to start. And, as I have outlined them above, there are some very specific ways the Commission can do that.

THE ADMINISTRATION'S PROPOSED FAMILY ASSISTANCE PROGRAM

Mr. BYRD of Virginia. Mr. President, Anthony Harrigan, executive vice president of the Southern States Industrial Council, has analyzed the administration's proposed family assistance program.

It contains a lot of facts of which Congress and the public should be aware.

I ask unanimous consent that Mr. Harrigan's statement entitled "The Truth About FAP" be printed in the RECORD.

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

THE TRUTH ABOUT FAP

Apologists for the current welfare system often contend that the rolls are made up largely of the aged, blind, disabled and, of course, children. Therefore they insist that very few recipients are capable of earning their living as an alternative to subsidy. That this claim is, strictly speaking, true obscures may realities about American welfare and prematurely dismisses significant arguments against President Nixon's gargantuan Family Assistance Plan (FAP) which has passed the House as H.R. 1 and is now before the Senate.

In fact the three "adult programs" in the federal public assistance system, aid to the aged, blind and disabled, constitute barely one fourth of the whole cost,[1] with the overwhelming majority devoted to Aid to Families with Dependent Children (AFDC), a system which has ironically made participating parents as dependent upon their children as their children are upon them.

When federal aid to children was first conceived in 1935 its backers called the scheme "Aid to Fatherless Children," intending the beneficiaries to be orphans or children whose father was in some way incapacitated.[2] But when the program got on the books the name was changed to Aid for Dependent Children (ADC), and a seemingly innocuous phrase referring to a father's "continued absence from the home" was slipped in as one standard for eligibility. At first the measure stayed largely within Congressional aims, and five years later considerably less than a third of all ADC recipients were on the rolls as a result of the father's absence.[3] By 1961, however, children of absent fathers represented nearly two thirds (63%) of the total,[4] and that same year, in an effort to discourage such paternal desertion, Congress made children of unemployed fathers eligible as well, in those states which agreed to the change. Even so, by 1970 children with absent fathers had risen to 73% of the total, and strangely, this change was most marked in states where children of unemployed fathers were eligible for grants.[5]

In 1962 the name of the program was changed to Aid to *Families* with Dependent Children (AFDC) and nine years later there were 2.8 million adults on AFDC rolls, in addition to an approximately equal number receiving benefits under the official "adult" programs.[6] Congressional intent was thwarted, however, as the rate of absentee fathers continued its relentless growth.

It was not a mindless desire to squander public funds which motivated the Congress thus to expand welfare eligibility; indeed lawmakers almost unanimously had exactly the opposite intention. Likewise President Nixon tells us that FAP will get people "off the welfare rolls and onto payrolls." Yet the grand total of AFDC recipients has quintupled in the last fifteen years, doubled in the last four, and FAP proposes to double it again.[7] President Nixon has tried to sell the plan to Congress by stressing its work incentives and the fact that no one would be better off on the dole than on the job. The fact remains that such work incentives by reducing welfare payments, would subject a recipient to a 67% tax on earnings, leaving him 67¢ an hour if the base pay were two dollars. Common sense dictates that few people, especially the least motivated members of society, would work at boring, menial jobs for such a reward, particularly when FAP *guarantees* a family of four an income of $2400 plus substantial fringe benefits, regardless of work. Passage of FAP will prove that Congress has failed to learn what it should have learned ten years ago—increased benefits will continue increased paternal desertion because, as Dr. Roger Freeman testified to the Senate Finance Committee:

"No combination of benefits or earnings and benefits can alter the fact that a man can still maximize his and his family's income by desertion: he can then keep whatever he earns—instead of only one third as he would under plans in H.R. 1—and let his family be supported by AFDC." [8]

The current welfare structure is plainly inadequate, and while FAP represents an even worse alternative, a general consensus does exist to the effect that some drastic change is desirable. Certainly the most serious welfare problem is the absent father, and some Congressmen, such as Senators Harry Byrd and Russell Long, believe that the best way to deal with it is to make desertion a federal offense. H.R. 1 goes halfway in this direction, by making a deserting father who crosses state lines subject to federal prosecution, but only about ten per cent of absent fathers are known to have changed states.[9] To be truly effective, federal law should cover all deserting fathers regardless of residence who leave their families dependent upon AFDC funds largely provided by the federal government.

And welfare mothers should be firmly encouraged to assist in establishing the whereabouts and often even the identity of the missing father. Mothers now have an incentive not to bring back their mates since the missing man is generally not productive enough to support the family on his earnings alone as well as they had been living on AFDC, supplemented perhaps by his own surreptitious additions. Although the mother

Footnotes at end of article.

is now protected in her silence by HEW's confidentiality regulations, Congress can legislate an end to this counterproductive "right" and should authorize federal investigative forces such as the FBI to join the search for the elusive fathers.

Additionally the myth must be exploded that it is the scarcity of day care facilities which prevents mothers of young children from working. Statistics show that while fifteen million mothers worked outside the home in 1970, day care centers had capacity for only 750,000 children. In 1965 the Children's Bureau found that 46% of all children of working mothers were cared for in the home, mostly by relatives, 15% went to another home and only 2% were in day care centers.[10] It is reasonable to suppose, therefore, that the huge majority of mothers can, if they wish, find some means of caring for their children during working hours, especially now that new laws allow tax deductions for household help in families earning less than $18,000.[11] As Dr. Freeman has observed, the important question is whether the mother "truly wants to take the type of job she can handle at the wage it pays, or would rather be on welfare."[12] With what some estimated as "several million" domestic jobs going unfilled,[13] the lack of available employment cannot credibly be argued.

But perhaps the most important welfare reform is also the simplest. Rather than federalizing public assistance as in FAP, states should be granted wider discretion to set their own welfare standards. Governor Ronald Reagan testified to the Senate Finance Committee on February 1 that his administration had cut nearly half a million potential welfare recipients from the rolls in California and had thereby been able to raise benefits to those truly needy who remained. Some Reagan proposals included denying aid to families of strikers and making recipients who could not find private employment work for no additional pay at public jobs that would not otherwise be filled. One provocative sidelight to Reagan's presentation occurred when the Governor was asked what had happened to the citizens his changes had caused to become ineligible for welfare. While Reagan naturally could not specifically answer the question, he did observe that the unemployment rate in his state had remained stable, and he did not mention any sudden onslaught of Californians dying in the streets for lack of any means of survival. Likely they had returned to where they should have been all along, working within the private system at jobs which circumstances no longer permitted them to feel were too boring or too menial.

FOOTNOTES

[1] Richard A. Snyder, "Welfare: Separating Myth and Fact" Wall Street Journal, January 27, 1972, p. 10.

[2] "Statement of Roger A. Freeman, Senior Fellow of the Hoover Institution on War, Revolution and Peace before the Committee on Finance, United States Senate" January 27, 1972, U.S. Government Printing Office, Washington. p. 13.

[3] "The Welfare Mess: A Scandal of Illegitimacy and Desertion," an address of Hon. Russell B. Long, Chairman, Committee on Finance, and Supporting Material, U.S. Government Printing Office, Washington, Table 2, p. 12.

[4] *Ibid.*, p. 13.

[5] "Statement of Roger A. Freeman," p. 31.

[6] *Ibid.*, p. 47.

[7] *Ibid.*, pp. 57–58.

[8] *Ibid.*, p. 39.

[9] "The Welfare Mess," Table 6, p. 17; "Statement of Roger A. Freeman," p. 42.

[10] *Child Care Arrangements of the Nation's Working Mothers*, Departments of HEW and Labor, 1965, cited in "Statement of Roger A. Freeman," p. 50.

[11] "Washington Newsletter from Senator Russell B. Long," January 1972, p. 1.

[12] "Statement of Roger A. Freeman," p. 53.

[13] Martin J. Shannon, "Importing of Maids Swells as U.S. Girls Shun Domestic Work," Wall Street Journal, November 9, 1966, cited in "Statement of Roger A. Freeman," p. 55.

KENTUCKY DEVELOPS A BEEF INDUSTRY

Mr. COOK. Mr. President, a recent report issued by the U.S. Department of Agriculture shows that the Commonwealth of Kentucky ranks 11th in inventory of beef and milk cows when compared with the other 50 States of the Union. In addition, as of January 1, there were in excess of 44,000 head of cattle and calves on Kentucky feedlots being fattened for slaughter.

It is obvious that the Commonwealth has been quietly and slowly developing a new industry and has now emerged as a cattle State of some significance. Part of this growth can be attributed to the meat import law adopted by Congress in 1964.

The intent of this law was to stabilize not to stop the flow of beef imports to this country. It is a good law. It has allowed other countries to sell more meat to the United States while at the same time permitted substantial growth in domestic production. As a result the American cattle producer has finally reached the point where he can expect a reasonable return on his investment and labor. I would hate to see this trend reversed. But there is a danger that a reversal could occur.

There have been reports that certain officials within the administration are urging the President to authorize substantial increases in meat imports. I am against such action. I submit that an increase in beef imports would not result in any adjustment at the retail level but would in all likelihood, precipitate lower prices for the producer. These lower prices would have to be absorbed during a period that production costs are increasing. A severe setback to these producers could result.

I am interested in preserving and increasing beef production in my State not only because of the economic advantage accruing to Kentucky but because this industry contributes to the solution of a problem which effects the environment of the Nation.

Recently members of a subcommittee of the Senate Interior Committee visited Kentucky for a first hand view of the effects of surface mining on the landscape. These members were shown the results of adequate and inadequate reclamation of land which had been surface mined. The inadequate still needs to be corrected. But the members were impressed with the results of specific well executed reclamation plans. They were shown areas which had been graded and seeded, and which now provided excellent pasture land for cattle. It is impressive to see cattle grazing on relative flat land which was once a steep mountainside. There is substantial evidence that as more controls are exercised on surface mine operations and the resultant reclamation of these lands, more productive land suitable for pasture will be available.

I repeat that I oppose any action to increase beef imports. I do not believe that such action is in the best interest of the economy of this Nation as well as the attempts by the various States to solve related problems.

PEACE CORPS CRISIS

Mr. WEICKER. Mr. President, the Peace Corps is facing a crisis. Last January, President Nixon requested a "barebones" budget of $82.2 million for all the Corps' activities. The continuing resolution of December reduced this amount by over 12 percent to $72 million and the House cut out even more by agreeing to a spending ceiling of $68 million.

Unfortunately, this is only half the story. Since the Peace Corps has been authorized in July to spend at an annual rate averaging $80 million, they had already gone through $40 million by December 31, the mid-point of the fiscal year.

So, if we now agreed to the House appropriation, we would reduce the Corps' budget from $40 million to $28 million over the second half of the fiscal year—a cut of 30 percent. The result would effectively kill about half of the Peace Corps programs and cripple its future activities by drastically reducing the number of future volunteers in training.

The Peace Corps is indeed in crisis.

But now, Mr. President, comes the real irony. The budget for the most promising American promoter of international peace is one-tenth of 1 percent of the amount we spend to prepare for war.

Fortunately, the Senate Appropriations Committee and the Full Senate added $9.2 to the amount approved by the House, bringing the Peace Corps at least within shouting distance of the President's original request. Now it is absolutely imperative that the joint conference approve the full $77.2 million passed by the Senate.

Peace Corps Director Joseph Blatchford has estimated that if the appropriation is left at $68 million, 4,000 or fully half of all the Peace Corps Volunteers will have to return home immediately. This would completely wipe out programs in 15 countries and drastically reduce those in 40 others.

Mr. President, I can think of nothing more disastrous for our image abroad and at home. Governments and people worldwide would rapidly become convinced that American pursuit of peace, American offers to aid developing nations were little more than empty rhetoric. Here at home, millions of Americans who have come to see the Peace Corps as an idealistic yet uniquely effective weapon for peace would be badly disillusioned.

NATURAL GAS POLICY HEARING

Mr. BYRD of West Virginia. Mr. President, on behalf of the distinguished Senator from Washington (Mr. JACKSON), I ask unanimous consent to have printed in the RECORD a statement by him relating to the natural gas policy hearing.

There being no objection, the state-

ment was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR JACKSON ANNOUNCING WITNESS LIST FOR NATURAL GAS POLICY HEARING

Mr. President, on February 25, 29 and March 2, 1972 the Senate Committee on Interior and Insular Affairs will hold hearings to review natural gas policy issues. The hearings are being conducted pursuant to S. Res. 45 which authorizes the Interior and Insular Affairs Committee, with ex-officio representation from the Commerce and Public Works Committees and the Joint Committee on Atomic Energy, to undertake a study of National Fuels and Energy Policies. The hearings will be held in Room 3110 of the New Senate Office Building beginning at 9:30 a.m. each day.

The purpose of the hearings will be to review with selected Federal agencies and with selected witnesses the major policy issues related to natural gas supply and demand, exploration, production, distribution, and regulation.

A list of natural gas policy issues to which witnesses have been asked to respond was published in the Congressional Record on February 9, 1972 (S1487). The following is a schedule of invited witnesses.

FEBRUARY 25, 1972

Morning

Honorable Hollis M. Dole, Assistant Secretary for Mineral Resources, Department of the Interior.

Dr. M. A. Adelman, Massachusetts Institute of Technology, Cambridge, Massachusetts.

Charles Frazier, National Economic Research Associates, Philadelphia, Pennsylvania.

Afternoon

James E. Akins, Director, Office of Fuels and Energy, Bureau of Economic Affairs, Department of State.

Lee White, Former Chairman, Federal Power Commission, Semer, White & Jacobsen, Washington, D.C.

Paul W. Lattimore, Mayor, Auburn, New York, National League of Cities, U.S. Conference of Mayors.

FEBRUARY 29, 1972

Morning

John N. Nassikas, Chairman, Federal Power Commission, Washington, D.C.

Joseph Swidler, Chairman, New York State Public Service Commission, Albany, New York.

Jeffrey Montgomery, Chairman, Natural Gas Committee, Independent Petroleum Association of America, Washington, D.C.

W. L. Culbertson, American Petroleum Institute, Washington, D.C.

FEBRUARY 29, 1972

Afternoon

G. J. Tankersley, American Gas Association, Arlington, Virginia.

Charles Wheatley, General Counsel, American Public Gas Association, Washington, D.C.

W. Donham Crawford, President, Edison Electric Institute, New York, New York.

James T. Jensen, Arthur D. Little, Inc., Cambridge, Massachusetts, and Thomas Stauffer, Research Associate, Center for Middle Eastern Studies, Harvard University.

Carl Bagge, President, National Coal Association, Washington, D.C.

MARCH 2, 1972

Morning

General George Lincoln, Director, Office of Emergency Preparedness, Washington, D.C.

Environmental Protection Agency, Washington, D.C.

Walter E. Rogers, President, Independent Natural Gas Association of America, Washington, D.C.

Edward Berlin, General Counsel, Consumer Federation of America, Washington, D.C.

Afternoon

John F. O'Leary, Washington, D.C.

Arthur T. Woerthwein, Chairman, GAMA's Gas Availability and Supply Committee, Gas Appliances Manufacturers Association, Arlington, Virginia.

R. Hefner, III, Clover, Hefner, Kennedy Oil Co., Oklahoma City, Oklahoma.

Maxwell Hill, Union Carbide Co., New York, New York.

Due to the limited time available for these hearings the Committee will not be able to take testimony from everyone wishing to testify. The Committee does, however, welcome any statements or recommendations on the policy issues the Committee has identified as important elements in the development of a coherent and comprehensive national energy policy. Any statements received will be carefully reviewed and made a part of the Committee's hearing record.

THE AMERICAN TAX SYSTEM—UNFAIR—TAXES: TIME FOR FAIRNESS AND JUSTICE

Mr. HUMPHREY. Mr. President, the American taxing system—at all levels of government—is complex, overlapping, and fragmented.

I think it is the responsibility of government to make certain that taxes are just and no one gets a special deal.

But that is not the way it is with our present taxing system.

The present system is unfair.

It is rigged against the workingman.

It is rigged against the average family.

And it is rigged in favor of unearned income.

It is a system that penalizes the little man who works, and rewards the wealthy investor who gets checks from stocks, bonds, and large dividends.

Let us examine our taxing system.

Our citizens are subject to all kinds of taxes. On a $30,000 home, he pays an average property tax of $700. On a monthly electric bill, he pays an average of $3. His weekly grocery bill of average $50 includes about $2.50 in taxes. His monthly paycheck is subject to Federal income tax, State income tax, county income tax, and social security taxes. Telephone taxes on an average $18 phone bill cost $2.35 a month. There is sales tax on new tires. Drivers licenses, car certificates, title transfers, dog licenses—all costs money. His gasoline taxes average about 13 cents on a 37-cent gallon of gas. Cigarette taxes are about 22 cents a pack and going to a movie costs about 10 cents in amusement taxes. And on his or her death there will be inheritance taxes to pay.

In a 40-hour workweek, the average citizen spends 13 hours and 5 minutes earning enough money to pay his or her taxes. Or, on a daily basis, he or she spends 2 hours and 37 minutes working to pay his taxes. On the other hand, medical costs require 23 minutes of an 8-hour day; food requires 1 hour and 3 minutes; housing requires 1 hour and 1 minute; transportation requires 38 minutes; recreation, 19 minutes; and clothing, 25 minutes.

What all these taxes mean is that a once-progressive system of taxation has become a regressive system of taxation, and the once true theory that taxes ought to be based on one's ability to pay has been turned into a yearly game of tax payment avoidance with the result that some millionaires have escaped paying taxes.

In 1969 over 300 Americans with incomes in excess of $200,000 paid no income tax. Fifty-six of these Americans were millionaires. In 1970, more than 100 Americans with incomes of $200,000 paid no income tax. Yet, an average worker making $8,000, with a wife and two children pays $801 or 10 percent of his income in Federal income taxes.

This is neither right, nor just, nor fair.

Additionally, much of our Federal taxes go to pay for the cost of past wars—spending escalated by debt borrowing and rising interest rates on the public debt. The per capita cost of this debt is $1,816—a greater amount than the poverty level for a single individual. Federal debt is now over $400 billion. And the administration continually has to return to Congress asking for increased borrowing power.

Increasing taxes, increasing hours of work to pay for these taxes, and increased debt limits and deficits are only compounded in their heavy burden through the unequal, unfair, and regressive nature of who bears the most of the tax burden.

Federal, State, and local governments collect more than $275 billion in taxes a year. The Federal Government collects about $90 billion in personal income tax a year. However, 2 percent of the people in the United States receive 22 percent of the income and pay less than 10 percent of the taxes. The working man or woman making between $8,000 and $15,000—that is 26 percent of the people—makes 20 percent of the total national income, but pays 36 percent of the taxes.

Inflation has had its effect on the tax burden also. It has caused the burden of taxes relative to constant income to rise to a level almost as great as the sum of all the tax cuts since and including 1964. It seems that the much heralded tax cuts of 1969 and 1971 have had little effect. Economist Henry Wallich reports that "only for the lowest bracket—those with adjusted gross incomes of less than $5,000, has there really been a substantial reduction in the effective tax rate." Wallich further argues that, "Inflation * * * has shifted the taxpayer into a higher income class and tends to raise his real (tax) burden." Thus the "fiscal middle American" only finds his tax burden increased, not decreased by the combination of economic factors operating in our society today. In other words, the heaviest tax load is carried by middle-income Americans, with low-income earners burdened by a host of miscellaneous taxes such as sales tax, wage taxes, excise taxes on gasoline, telephone, tobacco, automobile parts, and so forth.

There is another group that is hurt by our taxing system—the poor and the near poor. Until 1970, the number of families living in poverty was decreasing, from some 39,851,000 in 1960 to 24,289,000 in 1969. In 1970, with high unemployment and a generally depressed condition of the national economy, the number of persons living in poverty actually increased by 1.2 million, or a gain of 5.1 percent.

Yet, these same poor people—those

making a total adjusted gross income of less than $6,000 pay over $5.4 billion in direct taxes, $2.8 billion of taxes in social security, and $2 billion in indirect taxes shifted back on wages, and over $14.5 billion in indirect taxes shifted forward on consumers.

During the debate on the Revenue Act of 1971, I offered an amendment which would have eliminated the poor from Federal tax liability. My amendment was adopted by the Senate, but the Nixon administration fought it in conference committee as being "too costly." As I said during the debate in November:

The treasury loses this revenue. There is no getting around it. But it loses it from those who can least afford to pay, and may I say from those whom society can least afford to tax.

The same holds true today. There is something unfair about a society that taxes poor people while millionaires and the wealthy are allowed to escape from taxation.

And there is something unfair about an administration and its Treasury Department that has become the advocate for the special interest. The Nixon Treasury has proposed legislation which allows a few big businesses to set up tax-free dummy corporations to sell their goods overseas; it has fought for legislation that would permit corporate giants a super-fast writeoff on their machinery, saving them billions in tax dollars every year. It has fought against increasing the amount of money a taxpayer can deduct for his dependents.

Under the Nixon administration, the Treasury has ceased its traditional role as the great bulwark against the special interest. It abdicated that responsibility and joined with special and privileged interest to sponsor legislation against the public interest.

THE FEDERAL TAX SYSTEM

The Federal Government collects over $146 billion dollars in taxes—not including trust fund taxes—that is over $123 billion in income taxes including $90 billion in individual income taxes and $32 billion in corporation taxes.

If you are wealthy, there are a whole series of tax escapes one can use. One could invest money in tax-exempt State or municipal bonds; one could go into the oil business; one could set himself up as a foundation; one could join a number of corporations and benefit from multiple pension plans; one could design a living trust fund; or split his income; or invest in captal gains taxation taxed at less than half the ordinary rates.

In short, our Federal income tax system is riddled with tax loopholes. Here are just a few that must and should be closed:

Is it fair that one giant oil company earning over $2.8 billion a year is permitted to pay less than 10 percent of its total income in taxes?

Is it fair that big business got a $9 billion tax break from the Nixon administration in the Revenue Act of 1971 through superfast machinery writeoffs and phony export devices?

Is it fair to the family farmer who struggles to make a living and pays high taxes while doctors and lawyers with big incomes play weekend farmer by buying farm property and grow tax deductions?

Is it fair for 10 percent of our people to use all sorts of tax dodges and tax shelters to avoid paying?

I do not believe so. I believe we must close these and other loopholes.

Payroll taxes are another source of inequitable tax burden on middle-, moderate-, and low-income families. The great percentage of payroll taxes at the Federal level are collected by social security taxes. The social security payroll tax collected over $42.9 billion in 1971—second to collections of the income tax and greater than the total corporate tax receipts of $35 billion. In 1972 the payroll tax will collect an estimated $48.1 billion.

All of this money comes from taxes on the first $7,800 of a worker's wages. Under legislation presently pending before the Senate, this wage base will increase to $10,300 with a total tax rate of 7.4 percent. What this means in terms of dollars is that the average wage earner will find himself paying a $754 in flat tax over and above the property, income, and sales taxes.

The payroll tax burden is becoming intolerable. It is not progressive. It is regressive. It is not spread equitably throughout the population. It is concentrated on those who make less.

The Nation desperately needs a change in the financing of social security. Numerous methods have been proposed—from progressive tax rates, to rebates for the poor on their social security taxes, to general revenue financing. On November 11, 1971, I introduced S. 2838, legislation that would begin one third general revenue financing of social security and railroad retirement benefits. Under this plan, a worker making $5,000 in 1972 would pay $140 maximum instead of $210. And a worker making $7,000 would pay $156 instead of $299. The social security tax for a $10,000-year employee would be $280.

This kind of change is vitally necessary—not only to give tax relief to present workers, but also to provide increasing benefits to our elderly.

STATE TAXES

Thirty-nine States now collect broad-based personal income taxes, 45 levy general sales taxes, 50 States have gasoline taxes, and 43 collect corporation income taxes. And the burden of State taxes is growing. In 1972 alone States such as Arkansas, California, Florida, Maine, Minnesota, Massachusetts, New York, Pennsylvania, and Ohio increased their tax rates or introduced new forms of taxation. Between 1959 and 1969, State taxes doubled in all but 10 States.

Sales taxes alone collect some $80 billion a year. But, the sales tax is a regressive tax. It is a consumption tax. It hits hardest on the poor and those with incomes below $10,000.

Tax reform in the States is not less important than tax reform in the Federal Government. But tax reform in the State is of a different nature than at the Federal level. For one thing, the Federal Government can play a large part in bringing about tax relief in the States. We can pass revenue sharing and include enough money both to make a dent in the problems and provide partial relief.

We can pass welfare reform in a manner that provides complete Federal funding of all State welfare costs.

And the Federal Government can begin to encourage States to have the most progressive tax system—the income tax—if that State needs and votes one.

We can have increased credits against Federal income tax for a States tax.

We can have Federal collection of State tax, both to cut the administrative expenditures and to simplify the complex systems in each of the States.

There are changes that must and should be made.

LOCAL LEVEL—PROPERTY TAX

The foremost tax at the local level is the property tax. There is no question that the property tax is regressive. It becomes even more regressive when it is used as the sole support of educational expenses. Over $30.6 billion is collected each year by the property taxes. Local governments in the United States receive about 86 percent of their total tax revenue from it; and school districts receive about 98 percent of their revenue from it.

At one time, the property tax made sense. Services were minimal, and local control was assured by having the taxing effort and the spending decisions coming from the same locality. Today, however, many cities and communities have reached the limit of the amount their property tax can produce. People are turning bond issues down because of the fear of increasing property taxes. The rate of school bond rejection has risen from 33 percent in 1964 to over 50 percent in 1970.

The property tax is a very heavy burden on the elderly living on fixed incomes and on the poor who find they are already strapped by low earnings and find rents increasing because of property tax increases. Cities find they are continually relying on a property tax base that just is not growing and, in fact, is declining.

The property tax discourages rehabilitation and improvements on housing, it discriminates because assessment procedures and practices are not current, and there exists a great disparity among local governments and among school districts, with affluent districts having better services, better schools, a higher quality of education, than poor communities and poor school districts.

In short, the property tax may well be a good sound tax to pay for fundamental community services and community government. It is not a sound tax to pay for school, educational, and welfare costs.

What must be done is to find an alternative method of financing school costs—with vast new participation by the Federal Government as a money supplier; with changes in the State as to the uniformity and equitability of property taxes; and with continued local control over fundamental school decisionmaking.

There are a variety of methods we could use.

But one is not the Nixon administration's proposal of a value-added tax.

I will not support and I cannot vote for any value-added tax. Indeed, it is the height of hypocrisy for the Nixon administration even to think of placing a giant size national sales tax on the American people when the income tax system is riddled with unfairness and loopholes, and when the States do want to take action to remedy their own situations.

The value-added tax is nothing but a consumption tax that means higher taxes for middle Americans and lower taxes for the wealthy. It will increase the cost of living, it will place an unconscionable burden on the poor, and it will play havoc with the tax base of local communities.

We need more funds. But we do not need them from a value-added tax.

I believe that the Federal Government must expand its education effort many times fold. The Federal Government should pay at least one-third of the total cost of public elementary and secondary education. We can create an education trust fund into which this money would be paid, and then allocated to the States on the basis of educational need.

At the same time, we can provide incentive funds if local areas place a ceiling on the growth of the property tax, and rebate that part of the property tax utilized for educational funding. Finally, the funding from the Federal Government for educational purposes might be contingent upon other goals such as first, a more equitable method of raising revenue within the State, second, giving the States wide latitude to achieve some equity in their revenue producing mechanisms, and third, a more equitable method of distributing public revenues for public education.

Just as we need high standards of public services throughout the Nation, we also need high standards of education quality and opportunity among all school districts.

A method of funding which follows the principles I have outlined above will accomplish the public goal.

What then are the objectives and goals of a taxing system for this Nation?

First, we must close the door shut on the loopholes of special privilege for the wealthy and the giant corporations.

Second, we must promote the inventiveness and imagination among all our people by making certain that the tax system does not penalize some for the advantage of others.

Third, we must end the fast writeoffs, the tax dodges, and tax shelter, and other undue tax breaks that make our tax system unfair for the majority of us.

Fourth, we must eliminate from Federal tax liability the poor and impoverished.

Fifth, we must reduce the burden for low- and moderate-income-tax families.

Sixth, we must bring the taxing systems of the Federal, State, and local governments into harmony with each other so that these systems are truly progressive.

Seventh, we must reduce the burdens of the property tax and payroll taxes through a more equitable method of paying for school costs, social security, and welfare.

Our goal must be to achieve tax justice through fairplay in our tax system.

CONCLUSION OF MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, I suggest that the morning business be concluded.

The PRESIDING OFFICER. If there is no further morning business, morning business is concluded.

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate the unfinished business, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 2515) to further promote equal employment opportunities for American workers.

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

The hour of 11:15 has arrived, and pursuant to the unanimous-consent agreement the remaining time between now and 12:15 p.m. will be equally divided and controlled by the manager of the bill, the Senator from New Jersey (Mr. WILLIAMS), and the Senator from North Carolina (Mr. ERVIN). Who yields time?

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum and I ask unanimous consent that the time be equally charged against both sides.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. Mr. President, I yield to the Senator from Alabama such time as he may need out of the time allotted to me.

Mr. ALLEN. Mr. President, I yield myself 7 minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 7 minutes.

Mr. ALLEN. Mr. President, this is the third time since January 18 that the invoking of cloture has been sought in the Senate on this bill, S. 2515, that would extend the authority, jurisdiction, and power of the so-called Equal Employment Opportunity Commission. On two occasions the Senate has refused to invoke cloture because more than one-third of the Senators voting on the cloture motion voted against that cloture motion. I harbor no illusions that the cloture motion will not be voted today, but I feel sure that it will.

Has this effort to familiarize the people of the country with the provisions of S. 2515 been worth the effort that has been put into it? In the judgment of the junior Senator from Alabama the time and effort expended in the discussion of the provisions of this bill have been well worthwhile. To this extended debate goes the credit for the adoption of the Dominick amendment which substituted court action on charges of discriminatory employment practices for the original provisions of the bill that would have allowed this Commission to be the court, jury, prosecutor, and enforcement officer, all wrapped into one Federal bureau.

To this debate goes credit for the amendment of the bill that would raise from eight to 15 the number of employees that a person would have to have in order to be subject to the provisions of the EEOC.

To this debate would go the credit for the adoption yesterday of the amendment that would exempt religious societies, corporations, and educational institutions from the provisions of the act insofar as their employment practices are controlled by religious considerations. In other words, it would prevent the EEOC from forcing on a Baptist school an atheist, or from forcing on a Catholic-supported school a Mohammedan.

So, Mr. President, this debate has been worthwhile. The distinguished majority leader has said that if this cloture effort today should fail he is going to ask that the whole measure be set aside. In effect, this is voting for or against enlarging the powers of the EEOC, up and down.

The EEOC has been operating for 7 years and almost 8 years as an advisory body, a conciliatory body, without enforcement powers. It claims it has been doing a good job. It has come in every year and asked for increased appropriations, and I assume they have told the Appropriations Committees of both bodies that they have been doing a good job. Therefore, why do they need enforcement powers? I submit they do not.

I object, too, to the extension of the jurisdiction of the EEOC over the employment practices of State, county, and local governments because I believe Federal bureaucracy should not encroach further on the powers of State and local governments.

I object to the extension of control by the EEOC of every educational institution in this country, every university, every college, every church-supported school, except in regard I mentioned a moment ago, every private school, and every public school, for that matter, because each of them is an educational institution. I object to these extensions.

If we should vote against cloture today it would defeat this effort. It is not often a Senator has an opportunity to strike such an effective blow, because to vote against this cloture motion will kill the

bill and strike an effective blow against mushrooming Federal bureaucracy; it will strike a blow against the doubling in size of a Federal agency; it will strike a blow against further encroachment on the powers of the State and local governments, and on the power of the EEOC and the Federal Government over the daily lives of our people.

Mr. President, this bill extending as it will, the power of the EEOC over small businesses—and I would say a business that employs as few as 15 people is a small business—will crowd many a small business to the wall. It is going to force many small businesses to close their doors and throw hundreds of thousands of people out of employment.

Mr. President, with the demands of Federal bureaucracy on small businesses, with the investigations, harassment, red-tape, and high taxes it is hard for any small business to stay in business. So the giving of enforcement power to the EEOC over the employment practices of small businesses, over the employment practices of State, counties, cities, and all educational institutions in the entire country, is, in the judgment of the junior Senator from Alabama, wrong.

It is hoped that one more than one-third of the Senators present will vote against this cloture motion.

The proponents of the measure, of course, have been able to select the time when this vote is to take place on the cloture motion, by controlling the time for the filing of the petition. Since the Senate rules require that 1 day be skipped and the vote be taken the next day, it has been possible to arrange a day, Tuesday, when the senatorial presidential candidates—and there are about six or seven of them—will be here. Mark my words, Mr. President: We are going to have a pretty full attendance by the senatorial presidents.

The PRESIDING OFFICER. The Senator's 8 minutes have now expired.

Mr. ERVIN. Mr. President, I yield the distinguished Senator from Alabama such further portion of the time available to me as he may wish.

Mr. ALLEN. I thank the distinguished Senator from North Carolina.

I did want to complete my thought that the time for this vote has been chosen by the proponents at a time when it will not be inconvenient for Senators to come in and vote. One of the cloture motions in the past was defeated on account of the absence of a number of the presidential candidates, and I dare say they are going to be here today. They are going to turn out in force for this vote. Every single one of them is going to vote to cut off free debate in the U.S. Senate. I hope the country is going to mark, and mark well——

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

Mr. ALLEN. I yield.

Mr. ERVIN. Does the Senator think any of them would want to cut off debate for the candidates for the office of President?

Mr. ALLEN. They would not like to be cut off, themselves; they might like to cut off the opposition from discussion. But not a single one of those presidential candidates is going to vote against cloture. Each and every one of them is going to cast a vote to cut off free debate in the U.S. Senate.

I note the names of 53 Senators on the cloture motion, and that is a great show of strength. I daresay a two-thirds vote will be cast invoking cloture.

Here is an opportunity to kill this bill. I hope Senators will avail themselves of the opportunity to come in and vote against the cloture motion.

Mr. ERVIN. Mr. President, will the Senator yield for a question?

Mr. ALLEN. I yield.

Mr. ERVIN. Is the Senator from Alabama convinced that the Senator from Alabama and the Senator from North Carolina will follow the injunction of the Scriptures where it says, "Thou shalt not follow after a great multitude to do evil?"

Mr. ALLEN. Yes, I do agree with the distinguished Senator from North Carolina.

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

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS. Mr. President, I yield myself such time as I need within my limits.

Mr. President, we have now reached the moment of decision in the debate over the Equal Employment Opportunity Enforcement Act of 1972. This is the 21st day of debate on that legislation. We have completed 5 weeks of discussion. We have had more than 30 rollcall votes. We have adequately and amply debated every issue that has been of significant concern to any Member of this body.

This is now the third time that we have tried to obtain a vote on the bill. It has been crystal clear since last week, when the Senate decided that the method of enforcement to be given EEOC was to be litigation through the Federal district courts, that no further debate on this bill was really necessary. I think it is clear that it was the sense of the Senate that we could have passed the bill last Tuesday night.

Since that vote, we have had a number of other amendments considered, but it has appeared to me that, for the most part, we have merely been marking time waiting for this day.

The people of the United States deserve this bill. The minorities and women who are suffering from discrimination in employment need this bill. The President of the United States has stated that he wants this bill.

The only people who oppose this kind of bill are those who, with a point of view of long standing, feel that no such legislation should be enacted by the Congress of the United States.

Mr. President, we crossed that bridge in 1957. We crossed that bridge in 1960, and we crossed that bridge in 1964 with the judgement of the Congress that the Federal Government protect the civil rights of our citizens. In a larger sense, that bridge was crossed with the adoption of the Constitution of the United States. Over the last 200 years there have been periods of activity with respect to enforcement of those constitutional guarantees, and other times when, regrettably, there has been less interest shown on behalf of individual rights.

I firmly believe that today, as much as at any time in our history, we need to actively protect the rights of our citizens.

The Senate has an opportunity to pass a far-reaching and vitally important piece of legislation after having conducted as extensive and intensive a debate as could conceivably be asked for on this measure. There is nothing left to discuss, Mr. President. This is a bill that is awaiting a vote of final passage. This is a bill where final passage cannot come until the Senate, observing its two-thirds rule, invokes cloture.

Mr. President, I expect that cloture will be invoked today. I respectfully urge all of my colleagues to vote to do so, so that we may expedite enactment of this legislation.

Mr. President, just before we recessed Friday, the Senator from North Carolina made a statement. I did not take an opportunity on Friday to comment, because we had just had an historic moment—the filing of a cloture motion with 53 Senators, and understandably the people of the press wanted to talk about that. So I did not make any observations at the time after the Senator from North Carolina made the statement, but I would like to make a brief statement now with regard to his observation on Friday last, when he said:

> It is very difficult to present the views of a minority in respect to legislation which is backed by a pressure group. This legislation is backed by a pressure group which has tremendous political power in the Congress of the United States and, unfortunately—I say this without intending to be critical—all too many Members of Congress will listen to the requests of a pressure group for the support of legislation and fail to avail themselves of an opportunity to ascertain whether the proposed legislation contains iniquitous provisions.

Mr. President, the first comment I would like to make is that, while the Senator has said it is very difficult to present the views of a minority—I gather he was speaking of his position and the difficulty of expressing his views—we have had, as I have indicated, 5 weeks of opportunity here in the Senate for those who are opposed to this legislation to express their views. Perhaps it is difficult. It did require attendance over the days through those 5 weeks. It was a hardship, but the opportunity was there. But the very distinguished and respected Senator from North Carolina seemed to be saying that having a pressure group backing the bill and supporting the bill is an iniquitous thing.

I have had an opportunity to reflect over that statement over many hours this past weekend, driving through a part of our country that was really the cradle of our country, where our Nation was born, through the land of the American Revolution, up through the Saratoga battlegrounds, and down through and across the river and into New England. I thought about the miracle and the pain of this young country. We are less than 200 years old. Two hundred years sounds like a long period of time, but when we measure it against the history of other nations, it is really almost a brief moment.

I was thinking subjectively and per-

sonally. I had an opportunity as a youngster to sit with my grandfather and learn from him about the country as it was when he was a boy. He was born before the Civil War. He as a young man had an opportunity to sit with his grandfather and learn about the country as it was at the beginning. His grandfather was born during the American Revolutionary War. So in this brief span of time—a grandson, his grandfather and his grandfather, in this subjective view of time personally—I have spanned the history of this country.

I suggest the miracle is that with the promise of liberty and equality of the individual as the basic principle, within 200 years this land has become the pinnacle of the aspirations of all people for freedom and equality.

But what of the pain during those 200 years? People came here with the promise and the hope of living lives of freedom and equality; but it was not an automatic thing. Earlier in this debate, some days or weeks ago, I recalled the people who came from Eastern Europe and the people who came from Western Europe, and I mentioned those from Ireland who came here knowing that this was a land of hope for a man who wanted to be free and who understood he would be equal. But the painfulness of this process of assimilation during these 200 years has been marked indeed.

Those who have come from the south, from Spanish-speaking lands, also came here for opportunity. From depressed lands, they came to get jobs. Their assimilation has yet to be completed. The others I have mentioned have been assimilated quite fully, notwithstanding that they came to a land where they were not in a majority in terms of religion or national origin; but those from the south, who came with another language, the Spanish-speaking people who came here, have yet to be assimilated. And the same is true of the black people who were impressed into service and servitude here and later freed. They have not yet been assimilated in the full sense.

These are the people to whom we are addressing ourselves, and these are the people who form the pressure group that I feel. I stand here in open confession that I feel the pressure upon me, as a Member of the U.S. Senate, of all people who have found in this land of promised equality and freedom that they, for reasons of land of origin, color of skin, or religion, have not had the opportunity to be fully assimilated on an equal basis.

This is the pressure group to which we are addressing ourselves—those people who know that their constitutional rights are not fully protected until there is effective law saying that no matter what your religion, where you came from, or what your race or your sex, you are equal in that first fundamental for any man or woman, a livelihood for themselves and their families.

And this is the pressure group, I respectfully submit to our good friend the Senator from North Carolina—not iniquitous at all, but a group, a nation, that should be heard—which should be heard about 12:30 p.m. today, when the roll is called after this long, long debate, when the Senate will have the opportunity to say it is now time to vote on this legislation.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, will the Senator from New Jersey yield?

Mr. WILLIAMS. How much time does the Senator need?

Mr. JAVITS. About 5 minutes.

Mr. WILLIAMS. I yield the Senator 5 minutes.

Mr. JAVITS. Mr. President, we come now to the crucial moment in respect to this measure. We have had two votes on cloture motions, both of which have failed. It has now been clearly demonstrated that the Senate is run, not by a majority, but by one-third of its Members, who can block anything the majority may wish to do.

We believe that we have now come to terms with two-thirds of the Senate, through the adoption of the so-called Dominick amendment, and through the reduction of the number of employees on which coverage is based which we had contemplated from 25 to 15 instead of from 25 to 8. We have passed decisively on a number of controverted issues. We have dealt with the question of whether or not the Office of Federal Contract Compliance shall be transferred to the Commission rather than the Department of Labor. We have dealt with employees of local units of government and of State units of government. We have dealt with the exclusivity of the remedy provided under this bill. It seems to me that we have dealt with about every substantive issue, and in many cases more than once.

So, Mr. President, I say that the time has come to vote. The question of whether the Senate can, even under its rules, become disentangled from a really old-fashioned filibuster of a civil rights bill now comes again into focus. Mr. President, I believe the Senate will vote cloture today, and we will see the end in sight with respect to this legislation.

The Senator from New Jersey (Mr. WILLIAMS) has very eloquently pictured what is at stake, and I would just like very briefly to state again my position, so often stated during this debate.

We seek to do a great deal, sometimes with success, about housing, about education, about opportunities for the uses of places of public accommodation, et cetera; but we know in our hearts that the fundamental proposition by which all Americans are ultimately conditioned is jobs—the availability of a job, the incentive of promotion with respect to a job, and the training for a job. Unless these opportunities are open, we can say all we want to, and even make all the provisions we wish about other matters, but they are bound to be inadequate to the occasion of really giving an equal chance for life to the minorities in this country.

So this is absolutely essential and absolutely basic. This is the enormous area in which discrimination continues. This law is vital. To secure the rights which we wish to secure under the Constitution, an essential condition precedent is that we shall secure this right, the right to a job. In terms of what we have learned in the war against poverty and in the civil rights field in the last 2½ decades, one thing stands out, Mr. President, and that is the issue of dignity. This consideration is superior even to money, or to any other opportunity. There is no greater dignity than that of the man who has a job and is earning his way. So, sociologically, this becomes a critical element of any effort in this country to bring abreast of the rest of society the poor and the minorities who are disadvantaged.

Finally, Mr. President, the opposition to this act has been constantly voiced on the ground that it would jeopardize American freedom, and that it would immobilize the employers of American workmen.

In terms of jeopardizing American freedom, I cannot see any greater enlargement of American freedom we could give than greater assurance that if a man rates it—that is the traditional American pioneer spirit—there is no limit to where he can go. We know that in the modern day, he cannot go anywhere without the necessary opportunity to work and to prove himself in work.

So, Mr. President, it seems to me that we are assuring and buttressing an inalienable right here, the right of every American to go as far as he can go in an economic sense—one of the dearest and strongest instincts of our country, which has brought us to the greatness of which we are all so proud.

The other aspect, Mr. President, is that of the employer. We are constantly told about how the employer is going to be bedeviled, inhibited, circumscribed, and persecuted by frivolous complaints, litigations, and so forth.

Mr. President, this contradicts the experience of 34 States with laws involving the right to get cease-and-desist orders, a far stronger remedy than we even have in this bill now, for a denial of equal opportunity respecting jobs and job training.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. Will the Senator yield me 2 additional minutes?

Mr. WILLIAMS. Yes.

Mr. JAVITS. Having given the instance before, I give it again. In my own home State of New York we have had a job discrimination bill since 1946, the famous Ives-Quinn bill, the principal author of which was Senator Irving Ives, who served in this body for two terms and with whom I had the great privilege of serving earlier in my incumbency here.

Our experience there has been that the cases are relatively few, that the overwhelming majority of cases are settled by conciliation procedures, that the fears which we expressed in 1945, when that bill was being considered, which were precisely those we hear here, of harassment and persecution of employers, were never realized. Sure, it has worked inadequately. I am sure we still have some discrimination. We still have complaints and court cases, and so forth. But on the whole it has been a remarkably successful reform, as it will be when nationally carried through under this bill.

So, Mr. President, the best proof is experience, and experience contradicts

the network of fears which have been argued here against this measure.

Finally, we all know that we face a great social problem in this country, and that is the problem of an integration of the black community into the society of the United States, uninhibited by the three centuries old tradition beginning with times of slavery, in which it first saw light in this country. This is a constant struggle which certainly can be dealt with according to the processes of law and the Constitution, if we are ready to afford a remedy when there is a legitimate grievance, as there is in this case, as witness the thousands of complaints which the EEOC has received since 1964.

So, in the interest of peace and tranquillity at home, this is an absolutely indispensable measure.

For all those reasons, I hope that the Senate, being now ready to vote, will commit itself to vote by voting cloture today.

Mr. ERVIN. I yield myself the remaining time at my disposal.

Mr. President, I do not think anyone can gainsay the accuracy of the statement I made last Friday to which my distinguished friend, the Senator from New Jersey, has alluded. I pointed out that those who represent a minority viewpoint against the demands of a pressure group are greatly handicapped in presenting their cause to Congress.

Under the Constitution of the United States, the Senate membership consists of 100 Members. The vision of the Senator from North Carolina is pretty good. He looks around the Senate Chamber and sees one, two, three, four, five Senators. The other 95 do not come to the Senate Chamber at this moment to hear what I say is the greatest grab for governmental power that this country has witnessed in my lifetime.

I use the term "pressure group" to denote a special interest group which seeks to attain its special objectives by destroying the freedom of other men.

I listened with great interest to the very eloquent presentation of the exploits of the men of the Revolution by my good friend, the Senator from New Jersey, and I applaud every word he said on that score. After they had won their independence, they established a Constitution to secure the blessings of liberty to themselves and their posterity.

Our generation has been so solicitous about the plight of minority groups that it has come to the conclusion that, by virtue of being a member of a minority group, an individual has rights superior to those of other Americans and that the rights of other Americans must be subordinated to their demands or the demands made on their behalf. That theory is absolutely incompatible both with liberty and equality.

If A has a right under the law to require B to work for him, that is slavery. On the contrary, if A has a right to say to B, "You must employ me if ordered to do so by a Federal agency in Washington, even if you prefer to select men of other races or other religions or other national origins because you think they will assist you better in making your business a success instead of a failure," that is also slavery.

This bill is incompatible with the free enterprise system, because the free enterprise system contemplates that a man who invests his talents and his resources in a business shall have the right to do those things which will make his business a success, including the right to determine for himself, without the dictation of government, whom he shall hire, whom he shall promote, and whom he shall discharge.

There never has been a bill which illustrates better the advisability of having rule XXII. When this bill was presented to the Senate, it was a most intemperate piece of legislation. It even went so far as to deny religious institutions the power to hire people of their own religion to do their ordinary work. A religious institution is not two separate institutions, one sectarian and the other secular. It is one living organism. It was only yesterday, after days of debate, that those of us who did not favor this bill in its original form were able to secure the adoption of an amendment that secured the freedom of worship guaranteed by the first amendment, by denying this Federal Commission the power to compel a religious society or a religious educational institution to hire people of another religion or no religion whatsoever.

To me, this bill is a rather despondent bill in its outlook for America's future. It is based upon the theory that America is, in substance, a decadent nation, that there are not enough jobs to go around, and that some men must be denied jobs and that the Government, through an agency elected by no one and responsible to no one, must decide who will have the jobs and who will be denied the jobs.

Speaking of equality and freedom, the bill was designed to confer on the Federal agency the power to deny employment to members of majority groups. A member of a majority group is just as much entitled to employment as the member of a minority group. Yet when the distinguished Senator from Alabama and the senior Senator from North Carolina introduced an amendment to the bill to prohibit the Commission, set up to prevent discrimination in employment, from practicing discrimination in employment, the amendment was overwhelmingly defeated.

Mr. President, I do not know of any single activity which deserves more severe condemnation than the effort to secure the enactment of legal provisions which will prostitute the judicial process while pretending to make obeisance to justice, thus damaging procedures under which justice cannot possibly be obtained.

This bill came in here with a proposal that the Commission be given autocratic power and that it combine within itself the duty of a prosecutor, the duty of an investigator, and the duty of a judge in a cause in which the members were essentially biased. It actually contained a provision in its original form, prior to adoption of the Dominick amendment, that the findings of fact of this prosecutor, judge, and jury, should be binding on the courts and that the courts would have to accept them even though it appeared to the courts that the findings of fact were probably not true.

I cannot imagine a greater prostitution of the judicial process than a provision like that.

By reason of the fact that the Senator from Colorado (Mr. DOMINICK) and the Senator from Alabama (Mr. ALLEN) and myself continued to make appeals to the Senate, notwithstanding the fact that the Senate had sanctioned by its votes such a prostitution of the judicial process, we were at last able to persuade the Senate to adopt an amendment which would provide that decisions should be made in the only place where decisions affecting the rights of other people should be made, and that is in courts of justice presided over by impartial judges.

Every man is entitled to a fair trial. A litigant is denied a fair trial when he is tried by an individual or an agency who is prosecutor as well as judge.

What is a fair trial?

A fair trial is given a man when he has his cause determined in an atmosphere of judicial calm by a judge who, in the words of Edmund Burke, "is able to decide the cases with the cold neutrality of the impartial judge."

Mr. President, I rejoice in the fact that despite the demands of a special interest group with great political power in this Nation, there have been some Senators who have stood on the floor of the Senate and sought to protect the freedom of American business and the freedom of the workingmen who belong to majority groups from legislation which would impose economic tyranny upon all American business employing as many as eight persons.

I respectfully submit that there is no body on earth which is capable of exercising wisely and impartially and justly all of the powers which this bill in its original form attempted to confer upon the EEOC.

Thus, Mr. President, in fighting for these changes in the bill, we have not only sought to prevent the prostitution of the judicial process, but we have also sought to preserve the right of employers who put their means and their resources into a business to determine for themselves things which should be determined by them, rather than by a governmental agency elected by no one and responsible to no one and possessing no competence in determining the requirements of business or how a business should be operated.

Mr. President, thanks to rule XXII, the Senate will probably pass, soon, a bill which will be far less obnoxious than the bill was when it was originally presented to the Senate.

Mr. President, I yield the floor.

Mr. WILLIAMS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. GAMBRELL). The Senator from New Jersey will state it.

Mr. WILLIAMS. How much time remains?

The PRESIDING OFFICER. Seven minutes.

Mr. WILLIAMS. That is, at the con-

clusion of the 7 minutes, that is the entire time remaining before a quorum call is called prior to the cloture motion vote; is that correct?

The PRESIDING OFFICER. The Senator from North Carolina has 1½ minutes remaining.

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

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 2 minutes.

Mr. WILLIAMS. Mr. President, I feel a bit of compulsion to come back to the distinguished Senator from North Carolina and his insistence on using the descriptive phrase "pressure group" as the moving force behind this legislation.

I confess that I feel the pressure of a group, a national group, the pressure of a nation of people who believe what the Constitution says and, to be effective, that the Constitution must have laws to support it.

What disturbs me is, it suggests that the Senator is rather impugning the whole process, the legislative process.

When a man introduces a bill and he goes out to fight for the bill, he is fighting for a measure that he believes will be useful or necessary for the Nation.

Maybe a group has persuaded him that this is in the national interest, but I would not impugn the process. Frankly, this would make as much sense as for me to look over to my good friend from North Carolina and say that he is being the voice of a pressure group of professional basketball players, because everyone in this country knows, who reads the sports pages, and now it is beginning to get into the general news, that the distinguished Senator from North Carolina (Mr. ERVIN) is fighting the fight for professional basketball players to preserve their freedom to contract.

The PRESIDING OFFICER. The 2 minutes of the Senator have expired.

Mr. WILLIAMS. And we know the problems in baseball. I believe it is suggested that the Senator from North Carolina is going to pick up the fight for the freedom of professional baseball players to contract.

I want to say that in this analogy what we are doing here, or what it is my prayer we are doing here, is saying to the employers of this Nation, be they governments or private employers, that they cannot have a reserve clause reserving the right to not hire because of a person's religion, race, sex, or national origin.

That reserve clause opportunity, I think, is against one of the first fundamental principles of the United States of America.

Mr. President, I yield to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, I think that the very eloquent argument of the Senator from New Jersey brings the matter home to every American.

I believe that what is involved at this point is the capability of the Senate to operate. It seems to me that we get to a point—and I have recounted the major issues we have already debated and redebated in this debate—where democracy itself is challenged by the question of whether a legislative body can operate. The thing that is often overlooked is the rule in the Senate by which a cloture motion must be agreed to by two-thirds in the event of a filibuster against the bill. That gives one-third of the membership present and voting the ability to immobilize the Government.

We hope and pray that there is never a day when this right will be used to jeopardize the security of this Nation. However, it could be.

We should all realize that nothing in the Constitution makes the Government work. If money is not appropriated, if authority is not given, if a law expires and is not renewed, the U.S. Government itself literally can be ground to a halt, not by affirmative action, but by unwillingness to act. And that is what is at stake. Therefore, we have a question involving a really major bill and the capability of the Senate to act and, therefore, the ability of the Government to act.

The President cannot spend money unless Congress appropriates it. The President cannot do anything if one side in the Senate were to say, "No. We will not do anything in a given aspect concerning the Federal law."

At long last when the Senate does gird its loins, it can invoke cloture, as I believe it will do today. It represents, if inadequate a vindication of the process of our constitutional form of government so that we are not in the position where we will collapse because our own institutions have trapped us in this quagmire so that we cannot act.

I hope very much we realize that the Senate must act. Democracy has to have finality some time. That is why we have a Supreme Court of the United States. That is why we have a Congress. And that is why—notwithstanding the usefulness of a filibuster in giving the side that feels they do not want a law, the opportunity to say, for whatever reason, that they will use this rule that permits the Senate to act only by a majority of two-thirds—the Senate will act.

Mr. President, I hope that the vote on cloture will be successful today.

Mr. WILLIAMS. Mr. President, do we have any time remaining. Have we run out of time?

The PRESIDING OFFICER. The Senator from New Jersey has 5 seconds remaining.

Mr. ERVIN. Mr. President, at long last I believe that the Senator from New York and I agree that the rule requires a majority of two-thirds.

In this very case, it compels the Senate to listen, to stop, and to think long enough to recover its senses.

Mr. WILLIAMS. Mr. President, I yield to the Senator from New York the 5 seconds if he wants to correct that erroneous impression.

Mr. JAVITS. Mr. President, I think that we have argued and reargued this thing enough. There are some things, notwithstanding my great respect for the distinguished Senator from North Carolina, that we cannot agree on. So, I think we had better vote.

CLOTURE MOTION

The PRESIDING OFFICER. The hour of 12:15 has arrived. Under the unanimous consent agreement and pursuant to rule XXII the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the bill (S. 2515), a bill to further promote equal employment opportunities for American workers.

1. Mike Mansfield
2. Robert Griffin
3. Robert C. Byrd
4. Abraham Ribicoff
5. Thomas J. McIntyre
6. Jennings Randolph
7. Harold E. Hughes
8. Gaylord Nelson
9. Thomas F. Eagleton
10. Adlai Stevenson
11. Walter F. Mondale
12. Lee Metcalf
13. Frank E. Moss
14. Len B. Jordan
15. John O. Pastore
16. Robert T. Stafford
17. Mark O. Hatfield
18. Robert Taft, Jr.
19. Harrison Williams
20. Richard S. Schweiker
21. Hugh Scott
22. Jacob K. Javits
23. J. Caleb Boggs
24. Charles H. Percy
25. James B. Pearson
26. Edward W. Brooke
27. Gordon Allott
28. Lowell F. Weicker
29. Clifford P. Case
30. Marlow W. Cook
31. Charles McC. Mathias, Jr.
32. Robert Dole
33. Henry Bellmon
34. Bob Packwood
35. Ted Stevens
36. J. Glenn Beall
37. Vance Hartke
38. George McGovern
39. Frank Church
40. Alan Cranston
41. Claiborne Pell
42. Daniel K. Inouye
43. John V. Tunney
44. Gale W. McGee
45. Joseph M. Montoya
46. Philip A. Hart
47. Stuart Symington
48. Lloyd Bentsen
49. William Proxmire
50. Birch Bayh
51. Fred R. Harris
52. Lawton Chiles
53. Warren G. Magnuson

CALL OF THE ROLL

The PRESIDING OFFICER. Under rule XXII, the Chair directs the clerk to call the roll to ascertain the presence of a quorum.

The second assistant legislative clerk called the roll and the following Senators answered to their names:

[No. 51 Leg.]

Aiken	Bellmon	Brooke
Allen	Bennett	Buckley
Allott	Bentsen	Burdick
Anderson	Bible	Byrd, Va.
Bayh	Boggs	Byrd, W. Va.
Beall	Brock	Cannon

Case	Hollings	Percy
Chiles	Hruska	Proxmire
Church	Hughes	Randolph
Cook	Humphrey	Ribicoff
Cooper	Inouye	Roth
Cotton	Javits	Saxbe
Cranston	Jordan, N.C.	Schweiker
Curtis	Jordan, Idaho	Scott
Dole	Kennedy	Smith
Dominick	Long	Sparkman
Eagleton	Magnuson	Spong
Eastland	Mansfield	Stafford
Ellender	Mathias	Stennis
Ervin	McGee	Stevens
Fannin	McIntyre	Stevenson
Fong	Metcalf	Symington
Fulbright	Miller	Taft
Gambrell	Mondale	Talmadge
Goldwater	Montoya	Thurmond
Gravel	Moss	Tower
Griffin	Muskie	Tunney
Gurney	Nelson	Weicker
Harris	Packwood	Williams
Hart	Pastore	Young
Hartke	Pearson	
Hatfield	Pell	

Mr. BYRD of West Virginia. I announce that the Senator from Arkansas (Mr. McCLELLAN), the Senator from South Dakota (Mr. McGOVERN), and the Senator from Washington (Mr. JACKSON) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) is absent by leave of the Senate on official committee business.

The Senator from Wyoming (Mr. HANSEN) is necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The PRESIDING OFFICER. A quorum is present.

The question before the Senate now is: Is it the sense of the Senate that debate on S. 2515, a bill to further promote equal employment opportunities for American workers, shall be brought to a close?

The yeas and nays are mandatory under the rule, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Washington (Mr. JACKSON), the Senator from Arkansas (Mr. McCLELLAN) and the Senator from South Dakota (Mr. McGOVERN) are necessarily absent.

On this vote, the Senator from Washington (Mr. JACKSON) the Senator from South Dakota (Mr. McGOVERN) are paired with the Senator from Arkansas (Mr. McCLELLAN).

If present and voting, the Senator from Washington and the Senator from South Dakota would vote "yea", and the Senator from Arkansas would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) is absent by leave of the Senate on official committee business.

The Senator from Wyoming (Mr. HANSEN) is necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The yeas and nays resulted—yeas 73, nays 21, as follows:

[No. 52 Leg.]

YEAS—73

Aiken	Bentsen	Cannon
Allott	Boggs	Case
Anderson	Brooke	Chiles
Bayh	Buckley	Church
Beall	Burdick	Cook
Bellmon	Byrd, W. Va.	Cooper
Cranston	Kennedy	Randolph
Curtis	Magnuson	Ribicoff
Dole	Mansfield	Roth
Dominick	Mathias	Saxbe
Eagleton	McGee	Schweiker
Fong	McIntyre	Scott
Gambrell	Metcalf	Smith
Goldwater	Miller	Spong
Gravel	Mondale	Stafford
Griffin	Montoya	Stevens
Harris	Moss	Stevenson
Hart	Muskie	Symington
Hartke	Nelson	Taft
Hatfield	Packwood	Tunney
Hughes	Pastore	Weicker
Humphrey	Pearson	Williams
Inouye	Pell	Young
Javits	Percy	
Jordan, Idaho	Proxmire	

NAYS—21

Allen	Ellender	Jordan, N.C.
Bennett	Ervin	Long
Bible	Fannin	Sparkman
Brock	Fulbright	Stennis
Byrd, Va.	Gurney	Talmadge
Cotton	Hollings	Thurmond
Eastland	Hruska	Tower

NOT VOTING—6

Baker	Jackson	McGovern
Hansen	McClellan	Mundt

The PRESIDING OFFICER. On this vote the yeas are 73 and the nays 21. Two-thirds of the Senators present and voting having voted in the affirmative, the motion is agreed to.

Cloture has now been invoked on S. 2515, and all debate is limited to a total of 1 hour, in all, for each Senator.

The question is on agreeing to amendment No. 850 to the pending measure.

Mr. SCOTT. Mr. President, on my hour, I rise first to comment briefly that I understand that not all of this time will be used. I believe the distinguished Senator from North Carolina has four amendments, and I understand from him that he does not plan to ask for rollcall votes on them. I am not sure of the intention of the Senator from New York, but it is hoped that we can bring this bill to an early conclusion. Does the majority leader have any comment?

Mr. MANSFIELD. No; I just wish to echo the sentiments expressed by the distinguished Republican leader. The sooner we can dispose of this measure, the sooner we will be prepared to lay down the bill on higher education and get embarked on that journey.

Mr. SCOTT. Does the Senator from New York desire the yeas and nays on his amendment?

Mr. JAVITS. Mr. President, I think it will depend upon the nature and extent of the opposition we may encounter. We really do not know. I have no desire for rollcalls just for the sake of rollcalls, but if opposition develops to amendments which the Senator from New Jersey (Mr. WILLIAMS) and I consider important to the bill, they may be necessary. From what I already know, I do not believe that our amendments should require more than 2 rollcalls at the most.

Mr. CRANSTON. Mr. President, will the Senator from Pennsylvania yield?

Mr. SCOTT. I yield.

Mr. CRANSTON. I wish to advise him that the Senator from Colorado (Mr. DOMINICK) and I have an amendment, submitted this morning, which we wish to bring up, which will not necessarily require a rollcall or take much time.

Mr. SCOTT. I thank the distinguished Senator from California.

AMENDMENT NO. 850

The PRESIDING OFFICER. The question is on agreeing to amendment No. 850. Who yields time?

Mr. JAVITS. Mr. President, I yield myself 3 minutes.

Mr. BYRD of West Virginia. Mr. President, the Senate is not in order. We cannot hear what the Senator says.

The PRESIDING OFFICER. The Senate will be in order. Senators will take their seats. The Senator from New York may proceed.

Mr. JAVITS. Mr. President, the pending amendment seeks to authorize 10 positions in the so-called higher grades 16, 17, and 18, for the purposes of buttressing the higher level staff of the Equal Employment Opportunity Commission in connection with the new responsibilities which it would have under this bill. We are advised by the Commission that this is the absolute rockbottom minimum number with which it can even begin to hope to do the job which we are assigning it under this measure. That includes, of course, an enlarged jurisdiction relating to employers of small numbers of workers, down to 15 from the present 25; it includes the right to go into court and start suits, which the commission has not had before; and it includes, with respect to employees of other units of government, State, and local, the responsibility to look into situations and try to handle them by conciliation, the actual litigation being undertaken by the Attorney General.

The mere recital of those responsibilities indicates the size of the job, and it seems to me and to the Senator from New Jersey (Mr. WILLIAMS) that the 10 additional positions sought is by no means out of line or unreasonable, and is certainly credible on the basis of the new ambit of their responsibilities. So I hope very much that the Senate, in the process of giving them the authority, will give them the means with which to discharge the responsibility.

The PRESIDING OFFICER. Who yields time?

Mr. DOMINICK. Mr. President, on my time, I should like to make a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMINICK. Under the rules of cloture, is it possible to amend an amendment if the amendment has not been sent to the desk prior to this time?

The PRESIDING OFFICER. It would not be in order to amend an amendment which had not been sent to the desk and read before the vote.

Mr. DOMINICK. So the ruling of the Chair is that any amendment that is printed is now in final form, not subject to any amendment whatsoever. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMINICK. Therefore, if changes need to be made, could they be made by consent of the Senator who is offering the amendment—by unanimous consent or otherwise?

The PRESIDING OFFICER. It would require the consent of the Senate to make such a change.

Mr. DOMINICK. I thank the Chair.

Mr. JAVITS. Mr. President, if there is no opposition to this amendment, I am prepared to vote on it now.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UNANIMOUS-CONSENT REQUEST

Mr. MANSFIELD. Mr. President, if I may have the attention of the leadership on the Republican side and the members of the Senate, a situation has come up which may call for the laying before the Senate of another cloture motion this afternoon, with the vote to come on Thursday.

Mr. President, I ask that immediately after the third reading of the pending bill, the Senate proceed to the consideration of H.R. 1746, the House companion bill; that the text of the Senate bill as amended be substituted for the House passed bill; that the House bill as amended progress through third reading, and that the final vote occur on the House bill as amended.

Mr. ALLEN. Reserving the right to object, Mr. President, rule XXII has been invoked.

The PRESIDING OFFICER. The Senator asks that rule XXII be suspended?

Mr. MANSFIELD. Yes.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. I am reserving the right to object.

Rule XXII, to stop debate on the Senate bill, S. 2515, has been invoked. Under the provisions of rule XXII, S. 2515 shall be the pending business until disposed of. Disposed of would mean either killed or passed.

I raise the point. I do not at this time object to the unanimous-consent request. I merely at this time raise the point that the Senator's request is out of order, under rule XXII.

Mr. MANSFIELD. Mr. President, if I may be heard, I did ask unanimous consent, and it is my belief that I am in order. I was aware of the situation which might arise, and I would be prepared to hear the ruling of the Chair.

The PRESIDING OFFICER. The Chair rules that the request is in order. There is nothing in the rule which prevents the making of a unanimous-consent request.

Mr. ALLEN. Then I object, Mr. President.

The PRESIDING OFFICER. Objection is heard.

Mr. MANSFIELD. Mr. President, it is the intention of the Senator from Montana to file a cloture motion today, which will come to a vote on Thursday next. All Senators should be warned, and all Senators should be in attendance at that time.

Mr. ALLEN. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. ALLEN. Is the presentation of a cloture motion in order prior to the final disposition of S. 2515, cloture having been invoked with respect to it?

The PRESIDING OFFICER. A cloture motion on the House bill would not be in order until the House bill is before the Senate, except by unanimous consent.

Mr. ALLEN. I raise that point of order.

Mr. MANSFIELD. Mr. President, it was my understanding, on the basis of colloquy between the distinguished minority leader and the Senator from North Carolina and other Senators that not too much time would be spent on the bill as long as cloture was invoked. If the situation has been changed, of course, we will be guided accordingly, and at an appropriate time we will file a cloture motion.

Mr. ERVIN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. Who yields time?

Mr. ERVIN. I yield time to myself, out of my time, if it is required.

Mr. President, rule XXII provides that if the question—that is, "Is it the sense of the Senate that the debate will be brought to a close?"—"shall be decided in the affirmative by two-thirds of the Senators present and voting, then said measure, motion, or other matter pending before the Senate, or the unfinished business, shall be the unfinished business to the exclusion of all other business until disposed of."

Does not that provide, cloture having been invoked, that action must be completed on the Senate bill?

The PRESIDING OFFICER. The Senator is correct—except by unanimous consent.

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

Mr. ERVIN. I yield.

Mr. MANSFIELD. Mr. President, it is my understanding—and I know I am correct—that each Senator has 1 hour, once cloture has been agreed to.

The PRESIDING OFFICER. The Senator is correct.

Mr. MANSFIELD. To the best of my knowledge, not many Senators are going to speak on the amendments; and those who are are going to speak, with one or two exceptions, are going to speak briefly. It would be my hope that we could dispose of the pending business sometime today, so that later today we could file a cloture motion, after every Senator has had a chance to be heard on the basis of the hour, which is his right and which is nontransferrable, under the rules of this body.

The PRESIDING OFFICER. Once the House bill is laid before the Senate. The Senator is correct.

Mr. ALLEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ALLEN. Before the cloture motion could be presented, the House bill would have to be the pending or the unfinished business, would it not? In other words, an intervening motion would have to be made to bring up the matter.

The PRESIDING OFFICER. The Senate would have to agree to consider the bill first, and the bill would have to be the pending business.

Mr. ALLEN. And that motion would be debatable.

The PRESIDING OFFICER. The motion to take up would be debatable.

Mr. ERVIN. Mr. President, a further parliamentary inquiry, and I yield time to myself.

The PRESIDING OFFICER. The Senator will state it.

Mr. ERVIN. The substance of the proposal embodied in the unanimous-consent request of the distinguished majority leader is, in effect, an amendment to substitute the Senate version of the bill for the House bill, and such is tantamount to an amendment to that effect, and such an amendment was not pending at the time the cloture motion came on for consideration.

The PRESIDING OFFICER. The Senator is correct, but by unanimous consent it could be agreed otherwise.

Mr. ERVIN. That is the point I am making. As long as there is no unanimous consent, the matter cannot be considered.

Mr. ALLEN. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. ALLEN. Mr. President, this move to bring up the House bill will be resisted.

According to the understanding of the junior Senator from Alabama, the Senate bill and the House bill were reported by the same committee on the same day. Both bills came to the calendar on the same day. The Senate bill was brought up for consideration. We spent a month debating it. An election was made as to the bill to be considered, and we spent more than a month considering it.

So it does not seem that it would be the wise procedure to abandon the Senate bill and go to the House bill. Why was not the House bill brought up originally? They had that option. Having chosen the Senate bill, it is going to be the opinion of the junior Senator from Alabama that we ought to stay on that bill until a final vote is had, let the bill go to the House, and let the House act on it.

The junior Senator from Alabama is going to resist any motion to bring up the House bill following close on the heels of the passage of the Senate bill. Why should we pass two bills dealing with the same subject, after we have spent more than a month debating the Senate bill?

So any motion to bring up a House bill will be resisted because it cannot even come up until the Senate bill is disposed of. Having acted on the question, why should the Senate then bring up another bill dealing with exactly the same subject? It is certainly not going to be permitted without a hard fight. I serve that notice.

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

The PRESIDING OFFICER (Mr. NELSON). The Senator from New York is recognized for 2 minutes.

Mr. JAVITS. Mr. President, of course the answer to the Senator from Alabama (Mr. ALLEN) is obvious. It is the traditional procedure in the Senate that when we pass a Senate bill and there is a House bill at the table, the House bill is called up and the Senate bill is substituted for it in terms of the text, and then it goes to conference. The distinguished majority leader had exactly that in mind when he made his unanimous-consent request.

Also, Mr. President, tradition is the only reason why I have risen to speak. Where the Senate has emphasized its will, Senators will generally do their utmost to carry out the will of the Senate.

The Senate overwhelmingly voted cloture. The Senate will be very well instructed to note that, notwithstanding the overwhelming exercise by the Senate of its will, it is now proposed to put the Senate through the trouble—which is all it is, because there is no substantive question involved whatever—of going through cloture all over again.

I rise only to underline and emphasize that fact.

It is the "nice guys" in this body who often go along with these things and say, "It is all right, let us do it this way." I have done that a hundred times since I came to Congress. The Senate has now decided.

It will be instructive to us to witness that the rules can be used to make the Senate—and it is perfectly legitimate to do so, I have no complaint about it—backtrack and go over the same ground again and again and again.

It is very instructive to us on what should be the rules. It is very instructive to us, also on the way the rules can be used in this body to deal with what is the expressed and overwhelming will of the Senate after long and full and fair debate.

So, I would only say to the Senate that we should be well instructed to know—and that is all I suggest, so that there is no deliberation as to what should be the rules on how they should be managed—that we understand just what happens in given situations.

I hope that the distinguished majority leader—I know his nature—will not be deterred, and I am sure he will not be, by the difficulties which seem to be before us momentarily. I believe the same will of the Senate, which decided the issue decisively now will decide it again and, if necessary, again after today in respect of the determination to enact this bill into law.

Mr. MANSFIELD. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Montana is recognized for 5 minutes.

Mr. MANSFIELD. Mr. President, I agree with the remarks of the distinguished Senator from New York (Mr. JAVITS). I feel sorry for the Senate, though—very sorry for the Senate—because of the use of the rules as announced by two distinguished Senators this afternoon.

The Senate is supposed to be a deliberative body. On occasion we refer to this institution as the greatest deliberative body on the face of the earth.

In my 20 years in this Chamber, I have come to doubt that statement, because on both sides, and on all sides, I have, on occasion, seen postponement, stalling, dillydallying, outright obstructionism of the will of the Senate, not of a bare majority but of the great majority.

Of course, this suggested procedure is the regular procedure. This is the way the leadership usually operates. This is the procedure which the Senate, by and large, without exception, to the best of my knowledge, has followed until today. This is a privilege and a right—a responsibility if you wish to call it that, Mr. President—which the Senate has given to the leadership.

Mr. President, it was my intention, when I called up the Senate bill, to follow the usual practice, and, in time, substitute the House bill for it.

May I say that I have been impressed with the attitude and the cooperation and the sense of fairness shown by the distinguished Senator from North Carolina (Mr. ERVIN) and the distinguished Senator from Alabama (Mr. ALLEN) during the course of this debate which began on January 18 on the pending measure.

They were not the ones who, by and large, were stalling most of the time. When they had something to offer, they offered it.

They were most cooperative and considerate. The delays on the votes as such were on the other side.

Mr. President, the Senate is supposed to operate on the basis of a sense of fairness. The Senate is supposed to have some confidence, some trust in the judgment of the joint leadership. If we have not got that, we have not got anything, because it is only on the basis of this trust, this faith, and this confidence that the Senate can operate as it should and as it must, if it is to be the institution we all think, deep down, that it is.

What the distinguished Senators have indicated in their opposition to the unanimous-consent request proposed by the Senator from Montana is entirely within their rights. It will not delay finally facing up to this question. It can, of course, postpone final consideration for some hours or some days but, eventually, the Senate will face up to the issue.

Mr. President, what we have before us, after this bill is disposed of, is the higher education bill. Related to that measure is one of the most emotional issues of the year; namely, the issue of busing. We have to contend with that and it will take some time.

Then there is the voter registration bill. That will take some time. Before we get to the voter registration bill, however, we have the women's rights amendment. That will take some time.

Somewhere along the road we have to consider legislation to raise the debt ceiling by $50 billion as requested by the administration—although the House only allowed a $20 billion increase until sometime this spring.

Then there is H.R. 1—a highly contentious piece of legislation.

There is also the Revenue Act, so-called, which would give aid and assistance to States, or if not the States, then to the cities and the municipalities of various kinds. There are measures dealing with health insurance, consumer affairs and many other major issues.

The PRESIDING OFFICER. The time of the Senator from Montana has expired.

Mr. MANSFIELD. Mr. President, I yield myself 2 additional minutes.

The PRESIDING OFFICER. The Senator from Montana is recognized for 2 additional minutes.

Mr. MANSFIELD. Mr. President, then we have 14 appropriation bills to consider.

Then there is the Democratic National Convention in the State of Florida in early July.

Then there is the Republican National Convention in the State of California in August.

Then we have the election.

You know, Mr. President, even though February has 1 extra day this year, this year is not going to be long enough to get through all this legislation if we continue to operate at this snail's pace and to hamstring the will of the Senate.

So I just want to make myself clear. If the Senate wants to be hamstrung—and the rules allow it—there is nothing we can do except to face up to our responsibilities, not as Senators from New York or Arkansas or West Virginia or Alabama or North Carolina or Montana, but as Senators of the United States.

I would hope that every Member of this body would recognize the fact that he is just not a Senator from a State nor an ambassador from a State, but that the interest of the Senate of the United States and this Nation should supersede all others in the conduct of the affairs of this body.

Mr. BYRD of West Virginia. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 3 minutes.

Mr. BYRD of West Virginia. Mr. President, I express my support for what the distinguished majority leader has just said. And in every respect, may I say, I approve of what he has said.

Every Senator in this body has a tremendous responsibility, and with that responsibility there is an uncommonly heavy burden. However, the heaviest burden to be borne by any Member of the Senate is the burden placed by the membership of this body upon the majority leader and upon the minority leader. Their responsibility is not only to their constituents in their respective States and to the Nation as a whole, but, more than that, they have a responsibility to their constituency in this body.

It is their responsibility, as the joint leadership, to do everything within their power, in conformity with the rules and after reasonable debate has occurred on any measure, to try to advance that measure to some disposition one way or the other, up or down.

The majority leader has at all times been most patient and fair and most considerate of the rights of every Senator. And I would hope that our friends in the Senate—whom we admire greatly for their courage, for their ability, and for their dedication to their duty—will not pursue the course which they have indicated will be pursued. And I am talking with regard to the distinguished Senator from North Carolina (Mr. ERVIN) and the distinguished Senator from Alabama (Mr. ALLEN).

Mr. President, I have no greater respect and admiration for any Senators in this body than I have for the two Senators whom I have just named. I think that they have fought a good fight. I think that they have performed a service

to the Senate of the United States, to their respective States, and to the United States as a nation in bringing to light certain flaws and certain weaknesses in the pending legislation. I think it has been largely through their efforts, Mr. President, that this legislation has been refined and improved, although not to the complete satisfaction of the two Senators and not to the complete satisfaction of some of those of us who voted for cloture today and who signed a cloture motion last Friday. However, the handwriting is on the wall. The Senate has expressed itself in no uncertain terms. I hope that the distinguished Senators will realize that there is nothing to be gained, really, in opposing the unanimous-consent request of the distinguished majority leader, and he will probably propound it again.

The PRESIDING OFFICER (Mr. GRAVEL). The time of the Senator has expired.

Mr. BYRD of West Virginia. Mr. President, I yield myself 2 additional minutes.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 2 additional minutes.

Mr. BYRD of West Virginia. Mr. President, there is nothing to be gained except delay and, in the long run, it is my concern that such delay, if it does occur, will but inure to the disadvantage of the Senator from Alabama and the Senator from North Carolina, perhaps when the next measure is before the Senate I know that they have equally strong feelings about that measure.

Mr. President, the Senate in its vote today has overwhelmingly supported the motion to invoke cloture. It will do so again if the leadership is forced to offer another cloture motion.

I do not say what I say out of unkindness to the Senator from North Carolina or to the Senator from Alabama. I feel that the die has been cast and the Rubicon has been crossed. I think that they will do themselves a disservice, perhaps, if they pursue the course which they have indicated they may. They have a right to do that. They are working within the rules. They have their hearts in the matter and whatever they do, I know they will do in good conscience. I have no doubt about that. I know that they will do what they think is right.

But, Mr. President, I want to say again that the leadership does have its burdens and its responsibility, and it will measure up to that responsibility, and the Senate will invoke cloture again on this measure, if need be.

So, I hope that the distinguished Senators will reconsider the position they have staked out and that they will not force the leadership to offer another cloture motion.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BYRD of West Virginia. Mr. President, I yield myself 1 additional minute.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for an additional minute.

Mr. BYRD of West Virginia. Mr. President, I hope that once the Senators have offered amendments which have qualified under rule XXII and the Senate has disposed of them, they will accept the judgment of the Senate on this bill and we might go on to take up the higher education measure—which is also very controversial.

UNANIMOUS-CONSENT AGREEMENT

Mr. President, I ask unanimous consent at this time that I may be permitted to yield my 1 hour, under the rule, or the remaining portion thereof, to the distinguished Senator from North Carolina (Mr. ERVIN). I do this because I know that he has a multitude of amendments at the desk and I want him to have all the time he can possibly have in order to discuss those amendments. Whether or not I support them is another matter.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? The Chair hears none, and it is so ordered.

Mr. ALLEN. Mr. President will the Senator yield?

Mr. BYRD of West Virginia. Yes.

Mr. ALLEN. Mr. President, I thank the Senator from West Virginia. It occurs to the junior Senator from Alabama that, the choice having been made to take up and consider the Senate bill, and that having been under consideration for a month, and rule XXII having been invoked—not through the vote of the distinguished Senator from Alabama or the distinguished Senator from North Carolina, but by the proponents of the bill who are demanding final action on S. 2515—I would like to inquire——

The PRESIDING OFFICER. The Senator from West Virginia may yield only for a question.

Mr. ALLEN. I am now ready to propound the question. I have laid this matter out as a predicate.

I ask the distinguished Senator from West Virginia why it would not be the better course of wisdom to send the bill over to the House for action? Why is it necessary to abandon the work of 1 month in the Senate and take up a brand new bill which is entirely different from the bill that the Senate has acted upon and then go through a cloture motion again on that measure? Why would it not be a better course of wisdom to let the Senate bill go to the House for action there?

The distinguished Senator from West Virginia has pointed out that the bill has been improved by the debate in the Senate. Might it not be improved more if it goes back to the House for consideration in that body?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that I may have back 5 minutes of my time.

Mr. ERVIN. Mr. President, I yield back to the Senator from West Virginia out of the time he yielded to me.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, from the standpoint of the Senator from Alabama, I can see why he views the parliamentary procedure as he does. From his standpoint he is entirely within his rights, and I would have to agree with him, if I stood in his shoes and viewed the matter as he does. I agree with his viewpoint that sending the Senate bill to the House and letting the House act on it would, indeed, perhaps allow, through additional consideration in the House, further refinement of the measure. However, it would also impose further delay.

Mr. ALLEN. It would not provide for any delay in the Senate. The Senate would be free of it until the measure came back to the Senate after House action.

Mr. BYRD of West Virginia. The Senate will soon have worked its will on the Senate bill. The House has already acted on the House bill. The leadership is pursuing the same course that has been pursued heretofore in situations of this nature. Once having acted on a Senate bill, it then moves to substitute the Senate language for the language of the House-numbered bill that came from the House. It is a faster procedure, and the bill then goes direct to conference. It saves time. The House acts in the same way with respect to Senate bills sent to that body.

So the leadership is pursing the same course it always pursues in the interest of time and in the interest of orderly legislative procedure. It is for that reason the leadership is taking this course. A decision was made at some point, somewhere by the leadership to take up the Senate bill rather than to take up the House bill in the beginning. But we have come down that road. The Senate will soon complete its action on the Senate bill, and I am simply saying to my distinguished friend from Alabama, for whom I have the greatest respect, that I think it would be a mistake, and I hope that that course will not be pursued, to force the leadership to again offer a motion to invoke cloture in order to get the House-passed bill acted upon by the Senate, with the Senate language substituted therein.

Mr. ALLEN. Mr. President, on my time, I have asked the distinguished Senator from West Virginia if it would not be conceivable that the Senate, having acted on the Senate bill, send it to the House, that the House might well act upon the Senate bill before the Senate could act on the final bill. Is that conceivable?

Mr. BYRD of West Virginia. It might be conceivable, but I do not think it is going to happen.

I must say that a cloture motion, when offered, will receive probably even more heavy support than the one which was voted on today. Certainly, it will be just as overwhelmingly adopted.

I say this in the interest of the Senator from Alabama: I cannot see where anything can be gained for the cause concerning which thus far he has made such a great contribution.

Mr. ALLEN. It seems strange to the junior Senator from Alabama that the Senate would pass the Senate bill and then, after having done that, move to the House bill on the very same subject, with so many other bills pending in the Senate needing action. Why would that be the best course to pursue?

Mr. BYRD of West Virginia. Well, we have already pursued the course of considering the Senate bill; we are already down that road. I am trying to say I

hope the Senator from Alabama will not seek to turn the Senate back from its unalterable course—which has now been chosen—of taking up the House bill and substituting the Senate language therefor.

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

Mr. BYRD of West Virginia. I yield to the distinguished majority leader.

Mr. MANSFIELD. I came in only on the last part of the speech just made by the distinguished Senator from Alabama so I may have missed some of it or misinterpreted what I heard. The Senator from Alabama will recall that the Senator from Montana, as majority leader, made the statement last week to the effect that if the cloture motion failed today the pending legislation would be set aside and we would turn to the next order of business. That did not come to pass. The cloture motion was adopted with at least 10 votes to spare, if my mathematics are correct.

Therefore, I think the Senate has expressed its will and I hope the will of the Senate will be respected by all of us, regardless of our feeling on this matter.

Mr. JAVITS. Mr. President, I yield myself 1 minute.

I think sometimes it is better to dispel any concerns or possibilities. I suggest to the distinguished majority leader the possibility that a unanimous-consent request be couched strictly in terms of what it is all about. In other words, the only thing of interest here would be to substitute the Senate text for the House text, and nothing else. There should be no concern in that regard that anybody has designs to redo the bill. If the unanimous-consent request is limited to the one function, that may be of some help. I make that suggestion.

Mr. BYRD of West Virginia. Mr. President, I renew my unanimous-consent request that my time may be yielded to the distinguished Senator from North Carolina.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ERVIN. Mr. President, I assure the Senator I do not need his time because I have only four amendments, on which I do not expect to ask for rollcall votes, and they can be disposed of quickly by voice vote.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to rescind the action on my request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. The question occurs that rule XXII having been invoked, and since the rule declares that the pending business must be disposed of before anything else can be brought up, it seems to me that the rule would require that the Senate bill be sent to the House. The House bill is entirely different from the Senate bill, and the House should have an opportunity to consider the quite different bill under its procedures.

We do not have any desire to force another cloture vote. But since the substitution of the revisions of the Senate bill to the House bill would be, in effect, an amendment which was not pending at the time the cloture motion was agreed to, I do not see how there would be anything to do except to pass the bill and send it to the House for its procedures. I do not see anything under the rules to necessitate or require any other cloture motion.

I have not placed this in the form of a parliamentary inquiry, but I would like to have it considered.

There is no other Senator in this Chamber for whom I have more respect than I have for the distinguished majority leader and the distinguished assistant majority leader. They have been most fair to us. If we have a valid point it can be sustained. We do not desire another cloture motion. We would just like to send it to the House because it is an entirely different bill than the bill the House passed, and let the House work its will according to its procedures.

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS. I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 2 minutes.

Mr. WILLIAMS. Mr. President, it was last Wednesday that the Senator from Alabama asked the Senator from New York and the Senator from New Jersey our parliamentary intention at the end of the debate on this bill. The Senator will recall that it was his concern that, having addressed the amendments through the last few weeks to the substitute, at the end of the amending process we might move to table and then we would be back at the original bill. I am sure the Senator recalls that. It was made crystal clear we would take the work of the Senate at that point and that would be the final legislative measure. Does the Senator recall that?

Mr. ALLEN. Yes.

Mr. WILLIAMS. It was this Senator's firm commitment that we would not use parliamentary availability to set aside the Senate's work and go back to the original measure.

Then, I so clearly stated that the work that we did here would not be touched again when that was finally voted, except to send it in the usual parliamentary and procedural way to the House for conference, by taking that work and using it in substitution of the House bill when that was taken up.

I could not have been more clear when I said there is to be only one cloture vote under our procedure, and the Senator stated "Yes."

Mr. ALLEN. Mr. President, I yield myself 3 minutes.

The Senator from Alabama is not suggesting that the intention of the proponents of the measure is to go back on what the Senate has done; but the point the junior Senator from Alabama is making is that it is the Senate bill which is before us.

It is the Senate bill which has to go back to the House, not the House bill. The debate has been on the Senate bill and the colloquy we had several days ago had reference to the Senate bill. The House bill was never mentioned.

Mr. WILLIAMS. I would write it in blood that the Senate bill, when it is substituted for the House bill, will be the Senate's work, and that is what will go over there.

Mr. ALLEN. That is not the point.

Mr. WILLIAMS. Is it the substance of what goes over there that bothers the Senator from Alabama?

Mr. ALLEN. The point that the Senator from Alabama is raising is that it is the Senate bill that we are working on, and it is the Senate bill, S. 2515, that should go to the House for conference, and not the House bill. We have not been discussing the House bill.

Mr. WILLIAMS. The Senate bill as finally passed will be the substantive measure which goes to the House.

Mr. ALLEN. Will it be S. 2515, as to which cloture has been invoked?

Mr. WILLIAMS. It will be the work of the Senate.

I would like to ask the distinguished acting majority leader, parliamentarily, if, in substance, we are getting absolutely the same result the Senator from Alabama is suggesting. Am I right or not?

Mr. BYRD of West Virginia. The language passed by the Senate is substituted for the language in the House bill, carrying the House number.

Mr. WILLIAMS. And that was the only thing that was not done here in the Senate—the numbering of the bill.

Mr. BYRD of West Virginia. The language of the Senate will not have been before the House, but will go to conference.

Mr. WILLIAMS. Exactly, but the Senator from Alabama is not worried, then, about the substance of the legislation that leaves this Senate Chamber for conference with the House. He simply is disturbed about the number at the top of the bill. It is as simple as that.

Mr. ALLEN. That is exactly right in this respect: The Senator from Alabama has been suggesting that we have been acting on S. 2515, and that is the bill that ought to go to the House, not the House bill, because we have not been acting on the House bill.

Mr. WILLIAMS. Let me ask again: Is it the substance of it?

Mr. ALLEN. It is the Senate bill.

Mr. WILLIAMS. I will say again: I will guarantee and I will write it in blood that the substance of the Senate action will be what will be sent to the House.

I yield to the Senator from New York. Is that not a blood promise?

Mr. ALLEN. The Senator does not doubt the integrity of the Senator from New Jersey and the Senator from New York. What the Senator from New Jersey does not seem to comprehend is that the objection the Senator from Alabama is making is to consideration of the House bill. He says that S. 2515 is what is before us. That is what rule XXII requires us to act upon. That is the bill that must go to the House under rule XXII.

Mr. JAVITS. Mr. President, if the Senator will yield to me, on my time—I yield myself 1 minute—this whole thing comes down simply to the fact that the Rules Committee in the other body will have another shot in calling the Senate bill to the floor, so that the House can go to conference, and the only net result will be to delay the Senate and the legislative process for a week or thereabouts. That

is exactly the thing that will happen. That is the only point. That would be the only result of it. Senators are absolutely within their rights, but it will have no substantive effect whatever. So it would be well to underline and emphasize again that what we are seeing is that the rules can be very susceptible of being used, as the majority leader said, to hamstring the Senate's will. That is all it amounts to.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, a parliamentary inquiry, and again I yield myself 1 minute. If there is no further amendment, is third reading in order?

Mr. ERVIN. Mr. President, I have another amendment.

The PRESIDING OFFICER. The Senate would first have to agree to the committee amendment as amended.

Mr. JAVITS. Mr. President, what is the question?

The PRESIDING OFFICER. The question is on the adoption of the committee amendment as amended.

Mr. ALLEN. Mr. President, the Senator from North Carolina has an amendment.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

AMENDMENT NO. 860

Mr. ERVIN. Mr. President, on behalf of myself and the distinguished Senator from Alabama (Mr. ALLEN), I call up my amendment No. 860 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be read.

The legislative clerk read the amendment, as follows:

On page 33, insert the following between the comma after the word "State" on line 19 and the word "or" on line 20: "or the employment of teachers or other members of the faculties of public elementary and secondary schools".

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

This amendment, if approved by the Senate, would remove from the coverage of the bill the employment of teachers or other members of the faculties of public schools.

We already have Federal courts dealing with the subject of employment of members of faculties and teachers of public schools. We also have the HEW dealing with that same question. To my mind, it is rather ridiculous to have a third agency or department of the Federal Government have jurisdiction in exactly that same field in which the other two are acting. We have enough confusion in this field. Indeed, we have conflicts between the EEOC and the Office of Federal Contract Compliance in the Department of Labor. So that this amendment would merely make it certain that EEOC is not going to undertake to act in the same field in which the Department of Health, Education, and Welfare and the Federal courts are now acting.

We do not need to have three different Federal governmental powers to try to deal with one situation.

I hope the Senate will adopt the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. JAVITS. Mr. President, I yield myself 1 minute.

This is simply an effort to add to the exemptions of the bill an exemption for teachers or other members of the faculties of public elementary and secondary schools. It simply removes from title VII of the Civil Rights Act of 1964 the question of discrimination regarding teachers or other members of faculties.

There has certainly been enough involvement in this question to recognize that teachers, just as much as others, are involved in the effort to desegregate schools.

The PRESIDING OFFICER (Mr. GRAVEL). The question is on the amendment. All those in favor say "aye." All those opposed, "no." The noes have it. The amendment is not agreed to.

Mr. ALLEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. It is too late to ask for the yeas and nays.

Mr. JAVITS. Mr. President, I yield myself half a minute.

As I understand it, at this stage of the proceedings that we have just passed by, a quorum call is in order, because there are not enough Senators here for the yeas and nays or for any other purpose, really, if anyone wishes to challenge it.

The PRESIDING OFFICER. A quorum call would be very much in order. The Chair will entertain a motion to rescind the recent action, and vote again.

Mr. ALLEN. Mr. President, I am satisfied with the result.

The PRESIDING OFFICER. The Chair thanks the Senator.

The committee amendment, as amended, is open to further amendment.

AMENDMENT NO. 908

Mr. ERVIN. Mr. President, I call up amendment No. 908, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 66, insert the following new section between lines 13 and 14:

"SEC. 13. Upon demand of any party, the issues of fact arising in any civil action brought under the provisions of this Act or the provisions of title VII of the Civil Rights Act of 1964 shall be determined by a jury."

Renumber "SEC. 13" as it appears on page 66, line 14, as "SEC. 14".

The PRESIDING OFFICER. Who yields time?

Mr. ERVIN. Mr. President, I yield myself 4 minutes.

This amendment would amend subsection (j) of section 703 of the original Civil Rights Act of 1964 so that it would read as follows:

Nothing contained in this title or in Executive Order No. 11246, or in any other law or Executive Order, shall be interpreted to require any employer, employment agency, labor organization, or joint labor-management committee subject to this title or to any other law or Executive Order to grant preferential treatment to any individual or to any group because of the race, color, religion, sex, or national origin of such individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, sex, or national origin employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to, or employed in, any apprenticeship or other training program, in comparison with the total or percentage of persons of such race, color, religion, sex, or national origin in any community, State, section, or other area, or in the available work force in any community, State, section, or other area.

In short, this would make it unlawful for the EEOC, the Office of Federal Contract Compliance, or any other Federal agency or department in seeking to prevent so-called discrimination in employment, from practicing discrimination in reverse such as is being practiced every day by the EEOC and also by the Office of Federal Contract Compliance. I sincerely hope that the Senate will agree to the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, I yield myself 1 minute.

The amendment would simply spin out and lengthen the time delay which is already incident to the fact that the EEOC must go into court by seeking a jury trial, thus guaranteeing that the——

Mr. ERVIN. No, Mr. President, this is not the jury trial amendment. The amendment is at the desk. This is the amendment which would amend——

Mr. JAVITS. No. 908 is the jury trial amendment, is it not?

Mr. ERVIN. No, this is to amend subsection (j) of section 703 of the Civil Rights Act of 1964 to make its prohibition upon preferential treatment applicable to the EEOC, the Office of Contract Compliance, and any other bargaining agency of the Federal Government enforcing any statute or Presidential directive relating to this subject.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. What is the pending amendment?

The PRESIDING OFFICER. The pending amendment is amendment No. 908.

Mr. ERVIN. Mr. President, I withdraw that amendment for the time being.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment is withdrawn.

AMENDMENT NO. 907

Mr. ERVIN. I call up amendment No. 907. I made a mistake a moment ago in stating the number. I did not intend to call up the jury trial amendment—No. 908—at this time. I ask that amendment 907 be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 66, insert the following new section between lines 13 and 14:

"SEC. 13. Section 703 of title VII of the Civil Rights Act of 1964 is amended as follows: Strike out the word 'title' wherever it appears in subsection (j) and insert in lieu thereof the words 'title, Executive Order Numbered 11246, or any other statute or executive order'."

Renumber "SEC. 13" as it appears on page 66, line 14, as "SEC. 14".

Mr. ERVIN. Mr. President, I yield myself 4 minutes, or such portion thereof as I may use, to explain this amendment to the Senate.

I ask unanimous consent that subsection (j) of section 703 of the Civil Rights Act of 1964 be printed in the RECORD at this point.

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

PREFERENTIAL TREATMENT

(j) Nothing contained in this title shall be interpreted to require any employer, employment agency, labor organization, or joint labor-management committee subject to this title to grant preferential treatment to any individual or to any group because of the race, color, religion, sex, or national origin of such individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, sex, or national origin employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to, or employed in, any apprenticeship or other training program, in comparison with the total number or percentage of persons of such race, color, religion, sex, or national origin in any community, State, section, or other area, or in the available work force in any community, State, section, or other area.

Mr. ERVIN. Any Senator who is desirous of understanding this amendment can read the amendment in the light of subsection (j) of section 703 of the Civil Rights Act of 1964 and understand what it would do.

It is designed to make the prohibition upon preferential treatment created by this subsection of the original act applicable not only to the EEOC, but also to the Office of Contract Compliance and to every other executive department or agency engaged, either under the statute or under any Presidential directive, in enforcing the so-called equal employment opportunity statutes.

Mr. JAVITS. Mr. President, I yield myself 1 minute in opposition to the amendment.

What is sought to be done here is to apply a particular provision of the Civil Rights Act of 1964 to the Executive order in order to make unlawful any affirmative action plan like the so-called Philadelphia Plan, and, by including the Executive order in this title, that would effectively be done, so that the Federal Government, as an employer, would be inhibited from putting into effect such a plan.

We have held that, because the Federal Government—we voted on that here; we debated it and we decided it—has an interest in maintaining constitutional guarantees, it has discretion as to whom it will contract with and will not contract with, to affirmatively encourage nondiscrimination and full utilization of minority group employees and women. So we—and the courts have sustained us—permitted the Federal Government to put into effect an affirmative-action plan.

This amendment, for practical purposes, would simply nullify that action. For those reasons, I oppose the amendment and hope it will be rejected.

Mr. WILLIAMS. Mr. President, I yield myself 1 minute.

When this idea was last presented by the Senator from North Carolina, it was resisted. There was resistance to the transfer of the OFCC to the EEOC. I joined with the Senator from North Carolina, but we lost.

I have recently, within the last few minutes, made a pledge to support what the Senate has done here, that I would support it as the measure we send to the House of Representatives.

The Senate has acted. I happened to agree with the Senator from North Carolina on the transfer of OFCC, but we lost. He is trying to do it all over again. Therefore I resist it, because the Senate has acted.

Mr. ERVIN. I yield myself 1 minute.

This is not exactly the same amendment. The same question is involved. The other amendment tried to circumvent the extenuated ruling of the then Secretary of Labor, who nullified the Civil Rights Act of 1964. This puts it under the Civil Rights Act of 1964 and makes it expressly apply to the Department of Labor as well as everybody else.

The PRESIDING OFFICER. The question is on agreeing to the amendment (putting the question).

Mr. ALLEN. Mr. President, I ask for a division.

Mr. ERVIN. Mr. President, I ask for a division.

The Senate proceeded to divide.

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROTH). Without objection, it is so ordered.

Mr. ALLEN. Mr. President, I ask for the yeas and nays on the pending amendment.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from New York will state it.

Mr. JAVITS. Has debate ended on this matter?

The PRESIDING OFFICER. No.

Mr. JAVITS. I thank the Chair.

I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from New York is recognized for 1 minute.

Mr. JAVITS. Mr. President, I wish to call to the attention of the Senate the fact that this amendment which is now before us for a vote seeks to cancel out the ability of the Federal Government to use the Philadelphia plan approach of affirmative action plans respecting employment. The courts have upheld that plan. The Senate has upheld the plan. We say that Federal Government contractors should be a model in that respect.

I wish also to point out for the information of the Senate that when the distinguished Senator from North Carolina (Mr. ERVIN) in a previous amendment stated that the affirmative action plan was being used arbitrarily and capriciously in some employment, I worked out with him an amendment which would guarantee and assure that when a contractor had gone into a plan and was proceeding with it, he would not be arbitrarily canceled out or coerced, or anything like that.

It seems to me, under those circumstances, that the Senate should very definitely reject the pending amendment.

The PRESIDING OFFICER (Mr. ROTH). The question is on agreeing to the amendment No. 907 of the Senator from North Carolina (Mr. ERVIN).

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

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Washington (Mr. JACKSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from South Dakota (Mr. MCGOVERN) are necessarily absent.

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

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) is absent by leave of the Senate on official committee business.

The Senator from Wyoming (Mr. HANSEN), and the Senator from Iowa (Mr. MILLER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Arizona (Mr. GOLDWATER) is detained on official business.

The result was announced—yeas 30, nays 60, as follows:

[No. 53 Leg.]

YEAS—30

Allen	Eagleton	Montoya
Anderson	Eastland	Pastore
Bennett	Ellender	Sparkman
Bentsen	Ervin	Spong
Bible	Fannin	Stennis
Brock	Gambrell	Symington
Burdick	Gurney	Talmadge
Byrd, Va.	Hughes	Thurmond
Byrd, W. Va.	Jordan, N.C.	Tower
Cannon	Long	Young

NAYS—60

Aiken	Griffin	Nelson
Allott	Harris	Packwood
Bayh	Hart	Pearson
Beall	Hartke	Pell
Bellmon	Hatfield	Percy
Boggs	Hollings	Proxmire
Brooke	Hruska	Randolph
Buckley	Humphrey	Ribicoff
Case	Inouye	Roth
Chiles	Javits	Saxbe
Church	Jordan, Idaho	Schweiker
Cook	Magnuson	Scott
Cooper	Mansfield	Smith
Cotton	Mathias	Stafford
Cranston	McGee	Stevens
Curtis	McIntyre	Stevenson
Dole	Metcalf	Taft
Dominick	Mondale	Tunney
Fong	Moss	Weicker
Gravel	Muskie	Williams

NOT VOTING—10

Baker	Jackson	Miller
Fulbright	Kennedy	Mundt
Goldwater	McClellan	
Hansen	McGovern	

So Mr. ERVIN's amendment was rejected.

Mr. ERVIN. Mr. President, on behalf of the distinguished Senator from Alabama and myself I call up amendment No. 844 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 33, strike out everything from the word "or" on line 20 through the word "activities" on line 24, and insert the following in lieu thereof: "or to the employment of any individuals by any educational institution."

Mr. ERVIN. Mr. President, I yield myself whatever time I consume.

Mr. President, this amendment would remove from the coverage of the bill all employment practices of all educational institutions. As I pointed out some days ago, when the EEOC invades the field of education to enforce employment practices, they have to decide two things before they can take action.

Mr. BYRD of West Virginia. Mr. President, may we have better order in the Senate?

The PRESIDING OFFICER. The Senator will please suspend. The Senate will be in order.

The Senator may proceed.

Mr. ERVIN. Mr. President, the first thing they have to decide is that a man who claims he has suffered discrimination when he applied for a job at the educational institution is qualified to teach the course of study in which the vacancy occurs. The second thing they have to decide is that he was denied employment because of his race, or religion, or national origin, or his sex.

Manifestly, as I pointed out some days ago, Federal judges, and members of the EEOC are not competent to pass on the qualifications of people who teach such abstract subjects as anthropology and other subjects in institutions of higher learning. Therefore, this amendment would remove from the coverage of the act employment in educational institutions.

Mr. JAVITS. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, I think this is simply rearguing the case which has been argued before in respect of this debate as to the delimitations of the employment of any individuals by any educational institutions.

I would like to point out that the exemption as it is now contained in section 702 has been considered and reconsidered five or six times. I believe as it stands now it represents the will of the Senate in what exemptions the Senate wishes to make in this particular title. Therefore, in accordance with the pledge that was made to the Senate by the Senator from New Jersey and me, the Senate has spoken and we wish to leave the matter strictly where it is.

Therefore, I urge that the amendment be rejected.

The PRESIDING OFFICER. The question is on agreeing to the amendment. All those in favor will signify by saying "aye." All those opposed will signify by saying "no."

Mr. ERVIN. I ask for a division.

The PRESIDING OFFICER. A division is requested.

All Senators in favor please stand and be counted.

Those opposed stand and be counted.

Mr. ALLEN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays are ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from South Dakota (Mr. McGOVERN), the Senator from Arkansas (Mr. McCLELLAN), the Senator from Washington (Mr. JACKSON), the Senator from Indiana, (Mr. BAYH), the Senator from Florida (Mr. CHILES), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Maine (Mr. MUSKIE), the Senator from Arkansas (Mr. FULBRIGHT) are necessarily absent.

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

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) is absent by leave of the Senate on official committee business.

The Senator from Wyoming (Mr. HANSEN) and the Senator from Iowa (Mr. MILLER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Arizona (Mr. GOLDWATER), the Senator from Vermont (Mr. STAFFORD), and the Senator from Ohio (Mr. TAFT) are detained on official business.

If present and voting, the Senator from Ohio (Mr. TAFT) would vote "nay."

The result was announced—yeas 15, nays 70, as follows:

[No. 54 Leg.]

YEAS—15

Allen	Ervin	Sparkman
Brock	Fannin	Stennis
Byrd, Va.	Gurney	Talmadge
Eastland	Jordan, N.C.	Thurmond
Ellender	Long	Tower

NAYS—70

Aiken	Fong	Nelson
Allott	Gambrell	Packwood
Anderson	Gravel	Pastore
Beall	Griffin	Pearson
Bellmon	Harris	Pell
Bennett	Hart	Percy
Bentsen	Hartke	Proxmire
Bible	Hatfield	Randolph
Boggs	Hollings	Ribicoff
Brooke	Hruska	Roth
Buckley	Hughes	Saxbe
Burdick	Humphrey	Schweiker
Byrd, W. Va.	Inouye	Scott
Cannon	Javits	Smith
Case	Jordan, Idaho	Spong
Church	Magnuson	Stevens
Cook	Mansfield	Stevenson
Cooper	Mathias	Symington
Cotton	McGee	Tunney
Cranston	McIntyre	Weicker
Curtis	Metcalf	Williams
Dole	Mondale	Young
Dominick	Montoya	
Eagleton	Moss	

NOT VOTING—15

Baker	Hansen	Miller
Bayh	Jackson	Mundt
Chiles	Kennedy	Muskie
Fulbright	McClellan	Stafford
Goldwater	McGovern	Taft

So Mr. ERVIN's amendment (No. 844) was rejected.

AMENDMENT NO. 908

Mr. ERVIN. Mr. President, I call up amendment No. 908, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 66, insert the following new section between lines 13 and 14:

"SEC. 13. Upon demand of any party, the issues of fact arising in any civil action brought under the provisions of this Act or the provisions of title VII of the Civil Rights Act of 1964 shall be determined by a jury."

Renumber "SEC. 13" as it appears on page 66, line 14, as "SEC. 14".

Mr. ERVIN. I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. Mr. President, I am a great believer in the right of trial by jury. I think that the issues of fact in any legal proceeding which affects the rights or responsibilities of any man ought to be determined by a jury rather than by a court. I find myself in complete harmony with the men who drafted and ratified the Constitution. They declared in that instrument, in the third paragraph of section 2 of article III:

The trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

When the demand of the people of North Carolina, as expressed in their constitutional convention, that there be a Bill of Rights added to the Constitution, was complied with, or at least when it became certain it would be complied with, there was eventually adopted amendment 6, which provides that:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law.

Then it is provided, in amendment 7, that:

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any Court of the United States, than according to the rules of the common law.

I am aware that the seventh amendment guaranteed the right of trial by jury only in common law actions as distinguished from equitable proceedings. But they were so solicitous of the right guaranteed in that amendment that they guaranteed that right in common law actions where the value in controversy amounted to more than $20. Here we are passing a bill giving the Federal district courts jurisdiction of controversies which far exceed in value $20, in some cases going to the hundreds of dollars.

I have been astounded by the expansion of the equitable powers of Federal courts. They have been expanded, I think, because some people do not favor trials by jury, and the expansion of the

equitable powers of the Federal courts has occurred to circumvent the guarantees of trial by jury contained in the Constitution.

I recognize that Congress has the power to deny the people covered by this bill the right of trial by jury. I think if the courts of our land are going to enjoy the respect and confidence of the people in cases of this kind, as well as in equitable proceedings generally, Congress is going to have to grant the litigants in those cases a statutory right of trial by jury. I say that because I think it is calculated to cause a loss of confidence in the courts of our country to allow everything in those courts to be determined solely by members of one profession, namely, the legal profession. I say this because the fact is that all Federal judges at least have a law license, are theoretically lawyers, and are so regarded by the general public, regardless of their legal attainments or lack of legal attainments.

I think the people of this Nation should participate in the administration of justice, and that we should have jurors called from the body of the citizenship of this Nation to determine issues of fact. That is the only way in which we can have citizen participation in the administration of justice in matters which might otherwise fall within the jurisdiction of courts of equity, where cases are tried without the intervention of a jury.

I feel that there would be a guarantee of a trial by jury contained in the Constitution in respect to equitable proceedings, which were very few in number at the time of the adoption of the Constitution, had the Founding Fathers been able to envisage the future and see how the powers of courts of equity were to be expanded. I rejoice to say that within the State of North Carolina, where I have the privilege of residing and which I have the honor of representing in part in this body, the legislature has recognized and the constitution of the State recognizes that there shall be a trial of issues of fact by jury, regardless of whether the issues of fact arise in what would have been common law actions or in equitable proceedings.

The purpose of this amendment is just to make it certain that litigants who are summoned under this act to the Federal courts shall have the right to demand a trial by jury on the issues of fact, and to make it certain that there shall be citizen participation in the enforcement of the provisions of this bill.

I think both of these purposes are praiseworthy, and ought to move the Senate to vote in favor of this amendment.

Mr. JAVITS. I yield myself 2 minutes.

Mr. President, in the first place, this is an equity proceeding in the Federal courts; and even the other body, in passing this bill, did not include a requirement for a jury trial. It would be special and unusual, and available only for this particular kind of proceeding which would be carried out by the Commission. If it is valid for this, why is it not valid for all proceedings under the 14th amendment, which would include education, housing, and everything else in the Civil Rights Act of 1964?

The real objection to it is that it would simply proliferate the court delays which were the primary element in the struggle here, and we had the assurances of the Senator from Colorado in his amendment that there was expedited procedure, including the possibility of a three-judge Federal court. When the Senate adopted that approach, notwithstanding that a majority did not want it but finally had to yield to the fact that it wanted a bill, it was without any contemplation that we would simply pyramid the difficulties we already had in court delays running up to 40 months—3 years and 4 months in many jurisdictions—by now imposing what would be a special requirement in these cases, as distinguished from the antidiscrimination field generally, of jury trial.

I believe that the Senate, having decided that it is going to go the route of litigation, does not desire simply to stop the litigation dead in its tracks even further by clogged calendars. As there are many safeguards, with appeals and so forth, and as we have many cases in equity, including those dealing with environment and other matters fully as serious as this, if not more so, I see no justification for introducing the jury trial except to delay these cases further.

For those reasons, I urge the Senate to reject the amendment.

Mr. ALLEN. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Washington (Mr. JACKSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Maine (Mr. MUSKIE), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from California (Mr. TUNNEY) are necessarily absent.

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

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) is absent by leave of the Senate on official committee business.

The Senator from Wyoming (Mr. HANSEN) and the Senator from Iowa (Mr. MILLER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Ohio (Mr. TAFT) is detained on official business.

If present and voting, the Senator from Ohio (Mr. TAFT) would vote "nay."

The result was announced—yeas 30, nays 56, as follows:

[No. 55 Leg.]

YEAS—30

Allen	Chiles	Fannin
Allott	Cotton	Gambrell
Bennett	Curtis	Goldwater
Brock	Dole	Gurney
Buckley	Eastland	Hollings
Byrd, Va.	Ellender	Hruska
Byrd, W. Va.	Ervin	Jordan, N.C.
Jordan, Idaho	Sparkman	Talmadge
Long	Spong	Thurmond
Randolph	Stennis	Tower

NAYS—56

Aiken	Griffin	Pastore
Anderson	Harris	Pearson
Beall	Hart	Pell
Bellmon	Hatfield	Percy
Bentsen	Hughes	Proxmire
Bible	Humphrey	Ribicoff
Boggs	Inouye	Roth
Brooke	Javits	Saxbe
Burdick	Magnuson	Schweiker
Cannon	Mansfield	Scott
Case	Mathias	Smith
Church	McGee	Stafford
Cook	McIntyre	Stevens
Cooper	Metcalf	Stevenson
Cranston	Mondale	Symington
Dominick	Montoya	Weicker
Eagleton	Moss	Williams
Fong	Nelson	Young
Gravel	Packwood	

NOT VOTING—14

Baker	Jackson	Mundt
Bayh	Kennedy	Muskie
Fulbright	McClellan	Taft
Hansen	McGovern	Tunney
Hartke	Miller	

So Mr. ERVIN's amendment (No. 908) was rejected.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had passed, without amendment, the following bill and joint resolution the Senate:

S. 2896. An act to amend chapter 83 of title 5, United States Code, relating to adopted child; and

S.J. Res. 189. Joint resolution to authorize the President to designate the period beginning March 26, 1972, as "National Week of Concern for Prisoners of War/Missing in Action" and to designate Sunday, March 26, 1972, as a national day of prayer for these Americans.

The message also announced that the House insisted upon its amendment to the bill (S. 671) to provide for division and for the disposition of the funds appropriated to pay a judgment in favor of the Blackfeet Tribe of the Blackfeet Indian Reservation, Mont. and the Gros Ventre Tribe of the Fort Belknap Reservation, Mont. in Indian Claims Commission docket numbered 279–A, and for other purposes, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. ASPINALL, Mr. HALEY, Mr. MELCHER, Mr. STEIGER of Arizona, and Mr. TERRY were appointed managers on the part of the House at the conference.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 748) to authorize payment and appropriation of the second and third installments of the U.S. contributions to the Fund for Special Operations of the Inter-American Development Bank.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 749) to authorize U.S. contributions to the Special Funds of the Asian Development Bank.

The message further announced that the House had agreed to the report of

the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2010) to provide for increased participation by the United States in the International Development Association.

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971

The Senate continued with the consideration of the bill (S. 2515) a bill to further promote equal employment opportunities for American workers.

EQUAL EMPLOYMENT OPPORTUNITY IN THE LIBRARY OF CONGRESS

Mr. CRANSTON. Mr. President, I call up the amendment I submitted earlier today prior to the cloture vote, which has been cosponsored by the distinguished Senator from Colorado (Mr. DOMINICK) and ask that it be stated.

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

The legislative clerk proceeded to read the amendment.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the text of the amendment will be printed in the RECORD.

The text of the amendment is as follows:

On page 63, strike out lines 9 and 10 and insert in lieu thereof the following:

"In those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, and in the Library of Congress shall be"

On page 63, line 13, strike out "The" and insert in lieu thereof:

"Except as otherwise provided in this subsection, the".

On page 65, between lines 4 and 5, insert the following new sentence at the close of subsection (b):

"With respect to employment in the Library of Congress, authorities granted in this subsection to the Civil Service Commission shall be exercised by the Librarian of Congress."

Mr. CRANSTON. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

Mr. CRANSTON. Mr. President, this amendment deals with section 11 of S. 2515, relating to nondiscrimination in Federal Government employment.

Mr. President, section 11 of the bill inserts a new section 717 in title VII of the Civil Rights Act of 1964 to provide, for the first time, a clear statutory mandate with respect to equal employment opportunity in the Federal Government. This section was added in committee as a result of an amendment which I offered with the Senator from Massachusetts (Mr. KENNEDY) and in cooperation with the Senator from Colorado (Mr. DOMINICK).

This bipartisan provision has three basic purposes:

First. Subsection (a) of the new section 717 provides a statutory mandate that all personnel actions affecting employees or applicants for employment in the Federal Government, "Shall be made free from any discrimination based on race, color, religion, sex or national origin."

Second. Subsection (b) in the new section 717 empowers the Civil Service Commission to enforce the mandate in subsection (a) and to be responsible for review of evaluation of Federal agency equal employment opportunity plans and programs. The subsection also requires that certain provisions be included in each agency's plan.

Third. Subsection (c) of the new section 717 creates a remedy in Federal district court—comparable to private employment actions—for any employee who has exhausted the equal employment opportunity complaint procedure within his Federal agency.

Mr. President, unfortunately, as drafted, these provisions, which in many respects only codify requirements presently contained in Executive orders and the Constitution, would not apply to employment in the Library of Congress. That is because legislative branch coverage in the bill is limited to "positions in the competitive service." Although this would apply to both the General Accounting Office and the Government Printing Office—which are agencies of the Congress, it would not apply to the Library of Congress which does not have positions in the competitive service and is not generally bound by the Federal personnel manual.

Presently, the Library of Congress has established its own equal employment opportunity program and generally cooperates with the Civil Service Commission with respect to equal employment, although the Library is not covered by the Government-wide Executive order. Under the amendment Senator DOMINICK and I are offering, employment in the Library of Congress would be subject to the nondiscrimination mandate of subsection (a) in the new section 717. I am assured by the Library of Congress that this would do no more than codify existing practice in the Library's personnel program.

In the same way, the amendment I am offering would also include the Library of Congress within the subsection (c) provision permitting aggrieved employees to bring civil actions in Federal court after they have exhausted their agency's administrative remedies. I am also assured by the Library of Congress that such law suits have been brought in the past against the Library in discrimination cases, and have not been dismissed on jurisdictional grounds.

However, with respect to the enforcement authorities granted to the Civil Service Commission in subsection (b) of the new section 717, to include the Library of Congress would raise substantial questions about the appropriateness of the Congress delegating to an executive agency—the Civil Service Commission—the legislative function of overseeing one of its own arms in this instance, the Library of Congress. Presently, the Civil Service Commission has no authority in the area of nondiscrimination in Library of Congress personnel programs or actions.

The amendment we offer would not in any way change that situation. Our amendment would amend subsection (b) so as specifically to remove any possibility that the Civil Service Commission or the EEOC would be empowered to exercise enforcement, review or evaluation responsibilities or authorities vis-a-vis Library of Congress equal employment opportunity programs or actions. Instead, our amendment gives to the Librarian of Congress with respect to Library of Congress employment all enforcement authorities which are given to the Civil Service Commission under subsection (b) with respect to nondiscrimination in Federal employment generally, and bestows on the Librarian of Congress, himself, the final authority—except as it continues to repose in the Congress itself with respect to one of its own agencies—for preparing and carrying out equal employment opportunity plans and programs. Thus, there would be no invasion by this amendment of the statutory authority of the Librarian to appoint employees of the Library "solely with reference to their fitness for their particular duties." (2 U.S.C. 140).

Mr. President, the Library of Congress employs approximately 3,850 employees under all pay systems, the vast majority of whom are paid under the general schedule. Its record of entry-level equal employment opportunity for minority groups generally is a good one. According to figures compiled as of May 31, 1971, blacks, Spanish-surnamed, and orientals hold 41.8 percent of all Library of Congress jobs. By contrast, minority group persons hold only about 19 percent of total Federal Executive Branch jobs.

However, opportunities for job advancement for minorities at the Library of Congress, as for the Government generally, leave much to be desired as illustrated by the disproportionately large share of Library of Congress jobs which minorities hold at the lowest GS grades and the very small share of jobs they hold at the higher grades. For example, minorities hold 87.5 percent of the 40 jobs at GS–2, 75.6 percent of the 226 jobs at GS–3, and 76.4 percent of the 466 jobs at GS–4. Yet, at the higher levels of employment, blacks, for example, hold only 6.4 percent of the 299 jobs at GS–12, 4.1 percent of the jobs at GS–13, and 2.7 percent of the 112 jobs at GS–14. And blacks hold none of the 134 positions above GS–14.

Thus, the Library of Congress needs to make greater progress in provision for upward mobility for its minority group employees and also in opening up higher paying jobs for qualified minority persons beginning employment in the Library of Congress. Toward this end, as sponsors of this amendment, we would expect the Library of Congress, to the maximum extent possible, to continue to cooperate and coordinate with the Civil Service Commission in the planning and implementation of its equal employment opportunity program, including keeping the Commission periodically advised of the appropriate data showing the results of its EEO program.

I am grateful to the Senator from Colorado (Mr. DOMINICK) for joining me in offering this amendment this afternoon and for all the cooperation he has extended to me in developing section 11 of the pending bill.

Mr. President, this amendment has

been discussed with the Director of Personnel and the Legislative Liaison of the Library of Congress, who have raised no objections to it. It has also been discussed with the distinguished Senator from North Carolina (Mr. JORDAN), Chairman of the Joint Committee on the Library of Congress, who has agreed to it. I have also discussed it with his fellow Senator from North Carolina (Mr. ERVIN) and the distinguished floor leaders of the bill, Senator WILLIAMS and Senator JAVITS, all of whom have agreed to it.

Mr. WILLIAMS. Mr. President, I should like to address myself for a few moments to the section of the pending bill which contains significant new procedures and directives to the Civil Service Commission regarding Federal equal employment programs. It also provides, for the first time, to my knowledge, for the right of an individual to take his complaint to court. The Senator from California (Mr. CRANSTON) will be offering an amendment to this section and my remarks are intended to include the provisions of his amendment concerning the Library of Congress.

Historically, procedures and responsibilities regarding Federal equal employment opportunity have been set forth in Executive orders, rather than in statute. The first of these orders was issued by President Franklin D. Roosevelt in 1940. Every President since Roosevelt has issued at least one Executive order on the subject, and yet equal employment opportunity in the Federal Government is still not a reality for all of its workers.

Some of the relevant statistics tell the story all too clearly. For example, minorities represent 19.4 percent of the total employment of the Federal Government, but their concentration in grades GS–1 through 8 indicates that their ability to advance to the higher levels has been severely restricted. Just as glaring is the situation regarding employment of women by the Federal Government. Women represent about 34 percent—approximately 665,000—of Government employees, and yet more than three-fourths of all women employed by the Government are in grades 1 through 6.

There are, perhaps, many reasons for this unfortunate record. One of them must be presumed to be the fact that the complaint process, in effect, calls upon the complaining party's agency to investigate and judge itself. Although the informal nature of the complaint process provides for the appointment of an outside examiner, the examiner does not have the authority to conduct an independent investigation, and his conclusions and findings are in the nature of recommendations to the agency head who makes the final determination on whether there is discrimination in that particular case. The only appeal possible is to the Civil Service Commission's Board of Appeals and Review.

Testimony heard in the past by this committee and the records of other commitees of Congress indicate that there is substantial skepticism on the part of Federal employees regarding the ultimate benefit of such procedures.

Many tend to feel that it is useless to even bother to file a complaint, knowing that it will be a rare instance where an agency admits to its own shortcomings. During the hearings on this bill conducted by the Senate Subcommittee on Labor, testimony was presented by the Honorable WALTER E. FAUNTROY, the Delegate in Congress from the District of Columbia. If I may I should like to quote briefly from Delegate FAUNTROY's remarks on this very subject. He said:

> It seems anomalous to have the Commission both establish policies for rooting out discrimination and at the same time have the basic responsibility for measuring the effectiveness of its personnel policies against the demands of the law. S. 2515 will remedy this inequity and provide for objective review of Federal discrimination policies.

It does indeed seem anomalous, and I am confident that the proposals proposed and adopted by the committee will improve the Federal equal employment picture substantially.

Mr. President, I should like to outline briefly the provisions of this section for the Senate, as I believe that an understanding of them will be beneficial as we consider this legislation. The section makes clear that personnel actions of the U.S. Government affecting employees or applicants for employment shall be made free from any discrimination based on race, color, religion, sex, or national origin, and the Civil Service Commission is given power to enforce that provision with appropriate remedies. The committee report makes clear that such remedies may be applied as the result of individual allegations of discrimination, Civil Service investigation of equal employment opportunity programs in Federal agencies, or their field offices, or from review of agency plans of action and progress reports. These remedies may relate to a situation involving a single employee, a group of employees, or broad management action to correct systematic discrimination and to improve equal employment opportunity program effectiveness.

The bill also directs the Civil Service Commission to require each Federal department and agency to prepare an equal employment affirmative action plan at least once every year.

As part of this program, it is expected that the commission would require agency plans to include specific regional plans for particularly large installations. Federal agencies are to receive from the commission the necessary guidance and authority to institute necessary remedies in individual cases including the award of back pay, reinstatement or hiring, and promotion where appropriate.

So that it will be a model for other agencies and lend the greatest credibility to Federal equal employment efforts, the commission will be expected to review and revise its own equal employment opportunity plan, particularly in its regional offices and at the higher grade levels, to insure that its own record in this field is exemplary. Other Federal agencies will be required to provide, on at least a semiannual basis, minority group employment and other data to the Civil Service Commission for its evaluation and for the public record.

Finally, written expressly into the law is a provision enabling an aggrieved Federal employee to file an action in U.S. District Court for a review of the administrative proceeding record after a final order by his agency or by the Civil Service Commission, if he is dissatisfied with that decision. Previously, there have been unrealistically high barriers which prevented or discouraged a Federal employee from taking a case to court. This will no longer be the case. There is no reason why a Federal employee should not have the same private right of action enjoyed by individuals in the private sector, and I believe that the committee has acted wisely in this regard.

Mr. President, I appreciate the Senate's time and attention. I am convinced that the language in the committee bill regarding Federal employees will prove a substantial help to those, who, for so long, have been "second class citizens," as far as equal employment opportunity is concerned. I ask unanimous consent that a more detailed analysis be printed in the RECORD.

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

ANALYSIS OF FEDERAL EMPLOYMENT

The bill adds to title VII a new section 717 making clear the obligation of the Federal Government to make all personnel actions free from discrimination based on race, color, sex, religion or national origin. The Civil Service Commission, which presently has the responsibility under Executive Order 11478, is given the authority under this title to enforce equal employment in the Federal Government.

BACKGROUND

The Federal Government, with 2.6 million employees, is the single largest employer in the Nation. It also comprises the central policy-making and administrative network for the Nation. Consequently, its policies, actions, and programs strongly influence the activities of all other enterprises, organizations and groups. In no area is government action more important than in the area of civil rights.

The prohibition against discrimination by the Federal Government, based upon the due process clause of the Fifth Amendment, was judicially recognized long before the enactment of the Civil Rights Act of 1964.* Congress itself has specifically provided for nondiscrimination in the Federal Government by stating that it is "the policy of the United States to insure equal employment opportunities for Federal employees without discrimination because of race, color, religion, sex, or national origin . . ." (5 U.S.C. § 7151). The primary responsibility for implementing this stated National objective has been granted to the Civil Service Commission pursuant to Executive Order 11246 (1964), and more recently by Executive Order 11478 (1969). In his memorandum accompanying Executive Order 11478, President Nixon stated that "discrimination of any kind based on factors not relevant to job performance must be eradicated completely from Federal employment." This was an important step forward in the field of equal employment opportunity for Federal employees.

STATISTICS RELATING TO FEDERAL EMPLOYMENT OF MINORITIES AND WOMEN

Statistical evidence shows that minorities and women continue to be denied access to a large number of government jobs, particularly in the higher grade levels. This disparity can be clearly seen in figures presented in

*See *Bolling* v. *Sharpe*, 347 U.S. 497 (1954) and cases cited therein.

a recent report released by the Civil Service Commission, *Minority Group Employment in the Federal Government (1970)*. On the basis of the figures presented therein, the following listing shows the percentage of minority group employees under the General Schedule by grade level:

	Negro	Spanish-surnamed	American Indian	Oriental
GS-1 through GS-4	21.8	3.0	1.8	0.6
GS-4 through GS-8	13.5	2.2	.7	.8
GS-9 through GS-11	5.1	1.5	.5	1.0
GS-12 through GS-13	2.7	.8	.2	.9
GS-14 through GS-15	1.7	.7	.2	.8
GS-16 through GS-18	1.4	.3	.1	.2

Minorities represent 19.4% of the total employment in the Federal government (15.0% are Negroes, 2.9% are Spanish-surnamed, 0.7% are American Indians, and 0.8% are Oriental). Their concentration in the lower grade levels indicates that their ability to advance to the higher levels has been restricted.

In many areas, the pattern at regional levels is worse than the national pattern, for example, the particularly low percentage of Federal jobs held by Spanish-surnamed persons in areas of high residential concentration of such persons, particularly in California and the Southwestern States.

The position of women in the Federal government has not fared any better. In testimony before the Senate Labor Subcommittee on this bill, Mrs. Daisy B. Fields, past president of Federally Employed Women (FEW), testified as to the distribution, by percent, of all women employed by the Federal Government (approximately 665,000 or about 34%) as represented by the following breakdown:

	Percent
GS-1 thru GS-6	76.7
GS-7 thru GS-12	21.7
GS-13 and above	1.1

The inordinate concentration of women in the lower grade levels, and their conspicuous absence from the higher grades is again evident.

COMPLAINT PROCEDURE

One feature of the present equal employment opportunity program which deserves special scrutiny by the Civil Service Commission is the complaint process. The procedure under the present system, intended to provide for the informal disposition of complaints, may have denied employees adequate opportunity for impartial investigation and resolution of complaints.

Under present procedures, in most cases, each agency is still responsible for investigating and judging itself. Although provision is made for the appointment of an outside examiner, the examiner does not have the authority to conduct an independent investigation, and his conclusions and findings are in the nature of recommendations to the agency head who makes the final agency determination on whether there is, in fact, discrimination in that particular case. The only appeal is to the Board of Appeals and Review in the Civil Service Commission.

The testimony before the Labor Subcommittee reflected a general lack of confidence in the effectiveness of the complaint procedure on the part of Federal employees.

Complaints have indicated skepticism regarding the Commission's record in obtaining just resolution of complaints and adequate remedies. This has, in turn, discouraged persons from filing complaints with the Commission for fear that doing so will only result in antagonizing their supervisors and impairing any future hope of advancement. The new authority given to the Civil Service Commission in the bill is intended to enable the Commission to reconsider its entire complaint structure and the relationships between the employee, agency and Commission in these cases.

SYSTEMIC DISCRIMINATION

Another task for the Civil Service Commission is to develop more expertise in recognizing and isolating the various forms of discrimination which exist in the system it administers. The Commission should be especially careful to ensure that its directives issued to Federal agencies address themselves to the various forms of systemic discrimination in the system. The Commission should not assume that employment discrimination in the Federal Government is solely a matter of malicious intent on the part of individuals. It apparently has not fully recognized that the general rules and procedures that it has promulgated may in themselves constitute systemic barriers to minorities and women. Civil Service selection and promotion techniques and requirements are replete with artificial requirements that place a premium on "paper" credentials. Similar requirements in the private sectors of business have often proven of questionable value in predicting job performance and have often resulted in perpetuating existing patterns of discrimination (see e.g. *Griggs v. Duke Power Co.*, 401 U.S. 424 (1971)). The inevitable consequence of this kind of a technique in Federal employment, as it has been in the private sector, is that classes of persons who are socio-economically or educationally disadvantaged suffer a very heavy burden in trying to meet such artificial qualifications.

It will be incumbent upon the Civil Service Commission to undertake a thorough reexamination of its entire testing and qualification program to ensure that the standards enunciated in the *Griggs* case are fully met.

PROVISIONS OF S. 2515

In order to assist the Commission in accomplishing its goals and to make clear the Congressional expectation that the Commission will take those further steps which are necessary in order to satisfy the goals of Executive Order 11478, Section 717(b) of the bill contains specific requirements under which the Commission is to function in developing a comprehensive equal employment opportunity program.

Thus, the provision in section 717(b) for applying "appropriate remedies" is intended to strengthen the enforcement powers of the Civil Service Commission by providing statutory authority and support for ordering whatever remedies or actions by Federal agencies are needed to ensure equal employment opportunity in Federal employment. Remedies may be applied as a result of individual allegations of discrimination, CSC investigation of equal employment opportunity programs in Federal agencies or their field installations, or from review of agency plans of action and progress reports. Remedies may be in terms of action required to correct a situation regarding a single employee or group of employees or broader management action to correct systemic discrimination and to improve equal employment program effectiveness to bring about needed progress. The Commission is to provide Federal agencies with necessary guidance and authority to effectuate necessary remedies in individual cases, including the award of back pay, reinstatement or hiring, and immediate promotion where appropriate.

REPORTING REQUIREMENTS

The bill also directs the Commission to require each Federal department and agency (including appropriate units of the District of Columbia Government) to prepare an equal employment opportunity affirmative plan of action at least annually. The Commission is to review, modify, and approve each department or agency plan (at whatever agency level needed) developed with full consideration of particular problems and employment opportunity needs of individual minority group populations within each geographic area.

Under these provisions, the Commission may require that agency plans include specific regional plans for particularly large Federal regional installations and other regional offices with deficient records of progress in equal employment opportunity.

The bill requires the Commission to obtain, on at least a semi-annual basis, minority group employment and such other data as are necessary for effective evaluation by the Commission and the public of each department's, agency's or unit's record of equal employment opportunity achievement and to publish at least semi-annually full statistical and other reports (comparable to the report now published annually) of equal employment opportunity progress. In evaluating agency plans for approval, the Commission is also directed to study and determine the appropriate allocation of personnel and resources committed to, and the qualifications to be established for top equal employment opportunity officials responsible for carrying out program responsibilities, including necessary affirmative action as well as processing of individual discrimination cases, on both a central office and regional (SMSA) basis.

PRIVATE RIGHT OF ACTION

An important adjunct to the strengthened Civil Service Commission responsibilities is the statutory provision of a private right of action of review of the agency proceedings in the courts by Federal employees who are not satisfied with the Agency or Commission decision.

The testimony of the Civil Service Commission notwithstanding, the Committee found that an aggrieved Federal employee does not have access to the courts. In many cases, the employee must overcome a U. S. Government defense of sovereign immunity or failure to exhaust administrative remedies with no certainty as to the steps required to exhaust such remedies. Moreover, the remedial authority of the Commission and the courts has also been in doubt. The provisions adopted by the Committee will enable the Commission to grant full relief to aggrieved employees, or applicants, including back pay and immediate advancement as appropriate. Aggrieved employees or applicants will also have the full rights of review available in the courts.

The bill (section 717(c)) enables the aggrieved Federal employee (or applicant for employment) to file an action in the appropriate U. S. district court after either a final order by his agency or a final order of the Civil Service Commission on an appeal from an agency decision or order in any personnel action in which the issue of discrimination on the basis of race, color, religion, sex or national origin has been raised by the aggrieved person. It is intended that the employee have the option to go to the appropriate district court or the District Court for the District of Columbia after either the final decision within his agency on his appeal from the personnel action complained of or after an appropriate appeal to the Civil Service Commission or after the lapse of 180 days from the filing of the initial complaint or appeal with the Civil Service Commission.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

The amendments were agreed to en bloc.

AMENDMENT NO. 909

Mr. JAVITS. Mr. President, I send amendment No. 909 to the desk on behalf of myself, the Senator from Kentucky (Mr. COOPER) and the Senator from New Jersey (Mr. WILLIAMS). I ask

unanimous consent that the text of the amendment I send to the desk, rather than the text of the amendment as printed, be the amendment I call up.

The PRESIDING OFFICER. Is there objection?

Mr. ERVIN. Mr. President, reserving the right to object——

Mr. JAVITS. Mr. President, I am sure the Senator wants to hear it. I suggest that the amendment be read first.

Mr. ERVIN. Mr. President, as I understand, the Senator from New York has asked unanimous consent to modify the prior amendment so as to make the appointment of special masters by the judge discretionary rather than mandatory?

Mr. JAVITS. The Senator is exactly correct.

Mr. ERVIN. I certainly have no objection to that.

Mr. JAVITS. Mr. President, I thank the Senator. I yield myself 1 minute.

The PRESIDING OFFICER. Would the Senator suspend while the clerk reads the amendment. The clerk will state the amendment.

The legislative clerk read as follows:

On page 50, before line 20, insert the following new section:

SEC. 4A. Section 706 of the Civil Rights Act of 1964 is amended by adding at the end thereof the following new subsection:

"(1) If the judge designated pursuant to subsection (f)(3) of this section has not assigned the case for trial within one hundred and twenty days after issue has been joined, that judge may appoint a master pursuant to rule 53 of the Federal Rules of Civil Procedure.".

Mr. JAVITS. Mr. President, the pending amendment really originated with the Senator from Kentucky (Mr. COOPER). I begged him to offer the amendment. However, with traditional modesty, he asked me to do so and allowed me to join him as a cosponsor.

It arose from the Dominick amendment, on which the Senator from Kentucky (Mr. COOPER) based his position that the courts could proceed as they wished on the appointment of a master under rule 53 of the Federal Rules of Civil Procedure. The normal rule as to the ability of the court to appoint a master if it wishes under rule 53 is quite stringent—the case must be truly exceptional to qualify. All this amendment does is relax that stringency in the area of title 7 cases, where justice delayed is very often justice denied.

Mr. DOMINICK. Mr. President, on my own time I wish to engage in a colloquy with the distinguished Senator from New York.

I discussed this amendment in its original form with the Senator from New York and suggested that rather than to strike what trial judges are supposed to do, we ought to leave it discretionary with judges because of the different situations that might arise in different jurisdictions.

As I understand it, the amendment language now is simply designed to remind the judge that Congress intends that employment discrimination cases should be expedited so if the judge thinks it wise, he can turn the case over to a master. This language simply highlights Congressional concern without trying to mandate what the judge does.

Mr. JAVITS. The Senator is exactly correct.

Mr. DOMINICK. Mr. President, under those circumstances, I can see no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York and the Senator from Kentucky, as modified.

The amendment as modified was agreed to.

Mr. ALLEN. Mr. President, the total unconcern of the Equal Employment Opportunity Commission for individual freedoms, property rights, and constitutional principles that would lie trampled in the dust under its rampaging feet if this Senate were to confer upon it the additional power and authority sought under S. 2515 was graphically revealed in an article by Mr. William Chapman which appeared in the August 27, 1971, edition of the Washington Post. Many of the Senators may have seen and read the article. I hope they did. Prefaced with the heading, "EEOC Would Curb Moves to Suburbs," Mr. Chapman exposed a diabolical scheme by present and former EEOC attorneys to snuff out freedom of movement by business. The article reads as follows:

[From the Washington Post, August 27, 1971]

EEOC WOULD CURB MOVES TO SUBURBS

(By William Chapman)

Legal officers of the Equal Employment Opportunity Commission have proposed a novel strategy to reduce the movement to suburbia of companies which leave minority-group workers trapped behind in the city.

A memorandum submitted to the commission last month suggests that companies are guilty of racial discrimination if their movement to new locations adversely affects minority workers living in the community where the firm is originally located.

Under the strategy outlined, court orders could be sought against companies planning to relocate, charging prima facie violations of civil rights laws. The companies would then have to prove in court that some overriding business necessity required the moves. Private plaintiffs would start the court actions; the EEOC lacks authority to do so.

The memorandum was prepared by the EEOC's former general counsel, Stanley P. Hebert, and the current acting general counsel, John de J. Pemberton Jr., and given to the commission chairman on July 7. The commission has yet to discuss the proposal.

It is designed to counter what civil rights leaders regard as one of the major threats of the times, the movement by businesses and factories to new suburban locations. Frequently, this means that blacks, Chicanos and other minorities are left jobless in the inner cities. Furthermore, either racial discrimination or the absence of low-cost housing in suburbia prevents these groups from moving to new job sites.

These factors play a large part in the increasing racial separation illustrated by the 1970 census. During the 1960s, the white population of the central cities declined by nearly 2 million people while the minority population increased by nearly 3 million.

The EEOC memorandum states: "A vast national expansion into the suburbs is generating severe racial polarization in our metropolitan areas. . . . Just as many middle-class citizens are migrating to the suburbs, companies and trade associations have begun to pull up stakes in the cities and to move to the suburbs."

It cites the recent movement out of New York City to New Jersey and Connecticut suburbs of such corporate giants as American Can Co., Pepsico and Continental Oil.

The legal strategy under consideration at the EEOC proposes the following steps to be taken under authority of Title 7 of the Civil Rights Act of 1964:

The transfer of an employer's facilities amounts to a prima facie violation if any of three elements are present—if the community left behind has a higher percentage of minority workers than the new community, if the transfer affects minority workers' employment situation more adversely than it affects other workers, and if the employer fails to take steps to correct inequities.

If the prima facie case were established, then the company would bear the burden of proving that some overriding business consideration required it to move. For example, the company could not simply say that the convenience of its executives and employees would be served by the move.

If the company could not prove an overwhelming business necessity, the court could then order it to refrain from moving.

The legal theory is based on precedents arising from other EEOC cases and suits by private plaintiffs against companies accused of violating Title 7. A string of decisions has held that although the company may not intend to discriminate, it is violating the law if the effect of its actions is to treat racial groups unequally.

In one case cited by the EEOC attorneys, a Southern power company was accused of discriminating against black job applicants by using certain educational tests. More blacks failed than whites. The courts finally held that although the tests were administered equally, their effect was to weed out black applicants whose education was inferior to whites. The courts said the tests must be dropped because the company could show no overriding economic need for their use.

"The test is whether there exists an overriding, legitimate business purpose such that the practice is necessary to the safe and efficient operation of the business," the Fourth Circuit Court of Appeals said in that case. "Thus, the business purpose must be sufficiently compelling to override any racial impact."

EEOC attorneys would hope to apply that same standard to relocation of private businesses. The issue probably will be presented to the commission this fall.

Such a legal policy would have only indirect effects in the District of Columbia, where the federal government is the largest employer. The EEOC would not have authority to seek court actions against government agencies, although EEOC attorneys think private plaintiffs could, using the same theory advanced by the agency's counsel.

If the unmasking of this bizarre proposal by Mr. Chapman was received incredulously by the American public, it is even more apparent that the article sent shock waves of embarrassment through the halls of the EEOC. For on the same day Mr. Chapman's article appeared in the Washington Post, in a matter of a few hours, EEOC Chairman Brown, obviously chagrined, issued the following hurry-scurry statement:

STATEMENT BY EEOC CHAIRMAN WILLIAM H. BROWN, ISSUED JANUARY 13, 1972

In order to correct some errors of interpretation in press reports earlier today about an EEOC staff memorandum, Chairman William H. Brown III issued the following statement:

"The memorandum discussed in press reports today concerned the possibility of employment discrimination by relocation of plant and corporate headquarters.

"This memorandum was an internal working paper expressing the legal opinions of some staff attorneys. It was not a recommendation for action and, of course, it certainly does not express EEOC policy.

"The memorandum was prepared only for me and has not been presented to the full Commission; nor is it likely to be considered by the Commission in the near future. We are deeply involved in preparation for our upcoming public hearings on employment practices in the gas and electric utilities industry which is the first priority of the Commission and staff at the moment.

"The issue of plant relocation is exceedingly complex and can only be skimmed in a brief memorandum."

Well, what Chairman Brown said is nice. It is not an uncommon practice for a Government agency, when it is confronted in print with an embarrassing news story, to issue a statement through the head of the agency to help straighten out or to "correct some errors of interpretation in press reports" and then clam up about the disclosure. Chairman Brown is not the first Federal official to cringe under the heat of public disclosure of a nefarious and undercover bureaucratic scheme, nor the first to look around for ways to play it down or, better yet, attempt to turn it off.

In fairness, I must say that Chairman Brown's disclaimer as to the full accuracy of Mr. Chapman's article apparently met with some degree of success. Little notice, if any, was paid to the memorandum during the hearings and executive sessions in which S. 2515 was jammed through the subcommittee and then the committee. This may be understandable in view of the revolutionary nature of the memorandum.

Some people may think that the EEOC would never arrogate unto itself the sole authority to examine and pass judgment as to what business shall move or not move because of the patent absurdity involved. Less than a decade ago, however, the idea of requiring a racial balance in public schools was also deemed too ridiculous to consider. Yet, today we see little schoolchildren in the South and other parts of the Nation being lugged all over cities and counties to achieve what HEW officials and the courts consider to be a mathematically satisfactory racial mixture in public schools.

No, Mr. President, the EEOC memorandum as described by Mr. Chapman is no fictionalized horror story. It is real. And its designing authors were never more serious in either their preparation of it or their intent to see it become the law of the land by some extrapolation of power conferred upon the executive branch of our Government.

I have, in my hand, a copy of the EEOC memorandum and intend to read and discuss it in just a few moments. Before doing so, however, I should like to say that I was astounded by the memorandum's contents. Even a casual reading of the memorandum removes all questions about the thirst for unlimited and unrestrained power which motivated the writing of the memorandum. It is more than just a vicious assault upon our free enterprise system. In its simplest terms, the memorandum is the dictrine of the arrogance of bureaucratic power. It would confer upon the EEOC the power of discretion and enforcement equivalent to that of a czar. Taken to its logical limit, the memorandum would destroy the rule of law and would leave us stripped before the whim of men. It is the very antithesis of a government of law—and particularly the antithesis of a government of limited powers specifically delegated to it by the people through a written constitution.

The authors of this shrewd memorandum tried to give the proposal some semblance of justification and refinement by the way of case citations. They even tried to use the present language of title VII to justify their theory, but here is where the first of many jokers contained in the memorandum appear. The memorandum asserts that—

Section 703(a) states that it is unlawful for an employer "to deprive or *tend to deprive* an individual of employment opportunities . . ." Thus, a proposed relocation that threatens to deprive minority workers of employment opportunities constitutes a *prima facie* violation of Title VII.

The catch is, Mr. President, and it blows their entire legal argument, section 703(a) says much more. It reads as follows:

Section 703(a)—It shall be an unlawful employment practice for an employer—

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual, with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or

(2) to limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.

From a reading of all of section 703(a), we, therefore, see that what the authors of the memorandum have done is to trim down part 2 of the section to prove its statutory authority to either forbid or restrict business relocation.

Taken as a whole, neither part 1 nor 2 of section 703(a) says anything at all about where a businessman can or cannot operate. It simply requires an employer to hire, discharge, classify, promote, and compensate his employees strictly on their skills and performance, which, I might add, any wise employer who is actuated by the profit motive does anyway.

When viewed in this light, Mr. President, the memorandum—all of it—reveals its legal inadequacies and one-sidedness so quickly as to be guilty almost of indecent exposure.

But let us look at all of the memorandum. It affords a glimpse, not often granted to the public or even to the Congress of the United States, of some of the ways in which a government bureau works in espousing the side of arbitrary and oppressive governmental intrusion against fundamental economic and individual rights.

I ask unanimous consent to have the memorandum printed in the RECORD.

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

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION MEMORANDUM, JULY 7, 1971

To: William H. Brown III, Chairman.

From: Stanley P. Hebert, General Counsel; John de J. Pemberton, Jr., Deputy General Counsel; and Martin I. Slate, Attorney, Office of the General Counsel.

Subject: Employment Discrimination by Re-location of Plant and Corporate Headquarters.

A vast national expansion into the suburbs is generating severe racial polarization in our metropolitan areas. During the past decade, the white population in our central cities has declined by 1.9 million persons while the minority population has increased by 2.8 million.[1]

Just as many middle-class citizens are migrating to the suburbs, companies and trade associations have begun to pull up stakes in the cities and to move to the suburbs. The following companies have, for instance, recently moved their corporate headquarters from New York City to Connecticut and New Jersey suburbs: The American Can Company, Pepsico, General Telephone & Electronics, Continental Oil, Chesebrough Pond's, Lone Star Cement, The Olin Corporation, Hooker Chemical, and many others.[2]

These corporate relocations sharpen racial polarization, with the companies go employment opportunities for minority workers,[3] for while suburbia has welcomed the white wage-earner, minority workers have been shut out of suburbia.[4]

Last month in Washington, D.C., the United States Commission on Civil Rights conducted extensive hearings on the role of the Federal Government in combating racial polarization resulting from migration to suburbia. The Commission concluded that the Federal Government has failed to make the full use of its authority in this area, and recommended that the Government develop affirmative programs to assure that future migrations to suburbia reduce rather than intensify polarization.

Pursuant to that recommendation, the Office of General Counsel has prepared this discussion of the role that the Commission might play in the Government's effort to reverse the present process of polarization. Part I shows that a corporate relocation or proposed relocation to a suburban area where minority workers do not reside constitutes a violation of Title VII unless the corporation has taken steps to assure equal employment opportunity. Part II suggests what steps might be.

PART I

The transfer of an employer's facilities constitutes a *prima facie* violation of Title VII if (1) the community from which an employer moves has a higher percentage of minority workers than the community to which he moves, or (2) the transfer affects the employment situation of the employer's minority workers more adversely than it affects his remaining workers, and (3) the employer fails to take measures to correct such disparate effect.

Section 703(a) of Title VII makes it unlawful for an employer to engage in discriminatory employment practices. In *Griggs* v. *Duke Power Company*, 91 S. Ct. 849 (1971), the Supreme Court held that any employment practice that has a disparate impact on minority workers constitutes a *prima facie* violation of Section 703(a) and places the burden of proving non-discrimination on the employer.[5]

A corporate relocation has a disparate effect on the minority work force. When an employer moves to a community with a lower percentage of minority workers than that from which he came, he diminishes the pool of available minority workers. He therefore decreases the employment opportunities for

Footnotes at end of article.

minority workers while increasing opportunities for non-minority workers.

More specifically, an employer has a duty of fair recruitment.[6] Locating a plant in an area with few minority residents gives rise to minority recruiting problems. Normal recruiting patterns tend to confine notice of job vacancies to those who reside and work in an area. Unless an employer makes special efforts to institute a minority recruiting program, he will have failed in his duty of fair recruitment.

A transfer also has a disparate effect on the employer's present minority workers if the ratio of minority employees who are unable to continue employment with the company to those minorities who do move is higher than the ratio of whites who are unable to move to those whites who do move. In the conventional employment situation there is this disparate effect: Management, which is largely nonminority, adjusts to the transfer easily; indeed, management personnel may live in the area to which the facility is transferred. Other personnel, largely minority, are frequently unable to follow the relocation; commuting may be too difficult, moving may be too costly, or minorities may be shut out from suburbia by racial attitudes or by restrictive zoning laws. Thus, unless the relocating employer arranges for his minority employees to continue employment, he will be discharging employees on the basis of race.[7]

It should be noted that it is not necessary for the relocation to have been completed in order for Title VII liability to attach. Section 703(a) states that it is unlawful for an employer "to deprive or *tend to deprive* any individual of employment opportunities . . ." Thus, a proposed relocation that threatens to deprive minority workers of employment opportunities constitutes a *prima facie* violation of Title VII.

The proposition that a corporate relocation constitutes a *prima facie* violation of Title VII is consistent with Commission policy and Court precedent. Mindful of the subtle and sophisticated nature of employment discrimination,[8] the Commission and the Courts have not limited their attack on employment discrimination to more traditional forms of discrimination, such as outright refusal to hire minorities. Rather they have given a broad interpretation to Title VII.[9] Thus, as the *Griggs* case establishes, commonly used tools of corporate manpower policy have been declared unlawful when they operate to deprive minority workers of equal employment opportunity; the high school diploma requirement, the Wonderlic test, the hiring hall,[10] and seniority rosters[11] have all been held illegal in such circumstances.

Nor has the thrust of Title VII been restricted to eradicating practices that are intentionally discriminatory. Title VII deals with the *consequences* of an employer's action, not with his motivation.[12] In the words of Chief Justice Burger, Title VII condemns "practices that are fair in form but discriminatory in operation." The neutrality of the relocation process should not save it from illegality if its consequences are to restrict minority employment.

Finally, it should be noted that the National Labor Relations Board has dealt firmly with the corporate relocation problem. An employer who relocates in order to avoid a union commits an unfair labor practice.[13] The analogy between the NLRA and Title VII has frequently been noted,[14] indeed, the Courts have pointed out that Title VII provides broader protection than the Labor Act.[15] It would therefore be unthinkable that an employer who is prohibited from relocating to avoid a union would be free to relocate his facilities away from minority workers.

Once a *prima facie* violation is established, to defend his conduct the employer must show that his discriminatory conduct serves a valid business purpose. As the Court explained in *Robinson* v. *Lorillard*, 319 F. Supp. 835, 841, 2 FEP Cases 465, 470 (M.D.N.C., 1970) *aff'd.* — F. 2d —, 3 FEP Cases — (4th Cir., July 1, 1971), "two lines of thought appear to have been advanced with respect to the meaning of *business purpose or business necessity* and what value Courts should ascribe to those words in determining whether a given employment practice is unlawful or not."

The first line of thought, and the one that the *Lorillard* court thought was most in keeping with the primary policy of Title VII is that "a valid business purpose can offer no absolution to an employer or labor organization who is acting in a discriminatory fashion. Where effects of discrimination are present, the system cannot be regarded as bona fide." Under this standard, an employer who relocates to the detriment of the minority workforce is clearly in violation of Title VII.

The second line of thought is that, to defend his conduct, the employer must demonstrate that an overriding business necessity justifies his discriminatory policy.[16] He must show that the advantages that he will derive from his discriminatory policy are *vital* to the operation of his business, and that they outweigh the discriminatory effect on the minority workforce. At first blush, it appears that this would be a difficult burden for an employer to meet when he relocates without assuring equal employment opportunity. His move will have created almost insurmountable problems for minorities, while the steps needed to assure equal employment opportunity appear far less costly.

On appeal, the Fourth Circuit, found it unnecessary to reject either of these two "lines of thought" for it held, in agreement with the District Court, that the employer's business purpose failed as a defense by either standard. But it elaborated upon the balancing test with these words: "The test is whether there exists an overriding legitimate business purpose such that the practice is necessary to the safe and efficient operation of the business. Thus, the business purpose must be sufficiently compelling to override any racial impact; [17] the challenged practice must effectively carry out the business purpose it is alleged to serve; [18] and there must be available no acceptable alternative policies or practices which would better accomplish the business purpose advanced, or accomplish it equally well with a lesser differential racial impact." [19]

Robinson v. *Lorillard*, —F. 2d —, —, 3 FEP Cases —, —, (4th Cir. 1971) (Typewritten opinion at pp. 15–16).

In the *Lorillard* case, the employer had resisted changing its promotion and job transfer system on the grounds, *inter alia*, that the settled policies provided for an efficient progression through interrelated jobs and, besides, had been adopted under union pressure at the risk of having to endure a strike. The court rejected the first of these recited reasons, because non-discriminatory alternatives could be found to serve the same need for efficiency in job progression. As to the second it said:

"The rights assured by Title VII are not rights which can be bargained away—either by a union, by an employer, or by both acting in concert. Title VII requires that both union and employer represent and protect the best interest of minority employees. Despite the fact that a strike over a contract provision may impose economic costs, if a discriminatory contract provision is acceded to the bargainee as well as the bargainor will be held liable." *Robinson* v. *Lorillard*, (4th Cir. dec.) *supra*, Typewritten opinion at p. 18. (Footnote omitted).

The reasoning of the Court on these two issues would seem to foreclose any successful "business necessity" defense for a relocation that failed to make adequate provision for members of the minority workforce.

Other judicial precedent is consistent. In cases involving employment discrimination based on race, the business necessity defense has rarely succeeded.[20] As the Fifth Circuit held in *Diaz*, a discriminatory policy is valid only when the essence or primary function of a business would be undermined by a non-discriminatory policy.[21]

If, as some critics maintain, corporate moves to the suburbs are motivated by the desires of corporate officials to locate their offices near their suburban homes,[22] the move is unlawful. Business convenience does not constitute business necessity.

The only possible defense would be proof that the move effects an essential or vital competitive advantage. This would be difficult. Not only must the employer prove that suburban relocation would improve his competitive position, but also he must show that it would improve his position more than a relocation in an area where minority workers reside; that is, he must show a business necessity that cannot be served by some alternative less costly to minority employment opportunity. Land values are depressed in many lower-income areas, and a relocation to suburbia might well be more costly than a relocation to a lower-income area.[23]

In any case, even if the profit motive justifies the relocation, to suburbia, it cannot justify the failure to take steps to assure that the risk of exclusion of minorities from employment is avoided.[24] The employer's costs of taking such steps is minimal in comparison with the social and economic damage brought about by his failure to assure equal employment opportunity. To quote Sol M. Linowitz, the Chairman of the National Urban Coalition:

"Everytime business decides to move or build a plant or other facility out in the hinterlands without insisting upon housing, schools and other services for its workers—present and prospective—it is helping to exacerbate the problems of an already deeply divided country."

PART II

An employer who violates Title VII must take action to comply with the Title. There are three touchstones in the formulation of remedies in the civil rights and fair employment areas:

(1) The paramount factor is the "public interest".[25] Employment discrimination is unfair and undercuts national productivity, and the individual "abrasions and dislocations" [26] that a remedy might cause should not interfere with our effort to achieve maximum fairness and efficiency.

(2) The victims of discrimination must be made whole.[27] Fairness dictates that they should have the position that they would have had but for the unlawful conduct.

(3) In making victims whole, a Court or the Commission will be flexible and tailor the remedy to the violation. As Section 706(g) of Title VII provides, when a Court finds that an employer is engaging in an unlawful employment practice, it should "order such affirmative action as may be appropriate." [28]

In this light, the following remedial scheme is appropriate: [29]

To assure a continued pool of minority labor, an employer should—

(1) institute special recruiting efforts in the nearest areas of minority residence. There is substantial precedent for such programs.[30]

(2) assure that the minority workers enjoy the same access to the employer's facilities that non-minorities do. If commuting expenses for minorities are high, they should be paid. If commuting is impossible, housing arrangements should be made: The employer should provide moving expenses.[31] If necessary, he should also provide or assist in the search for housing and use legal and commercial leverage to assure housing opportunities for minorities. The employer might not be responsible for the factors restricting housing opportunities, such as exclusive zon-

Footnotes at end of article.

ing regulations, but as the Fifth Circuit stated in refusing a local school board's claim that integration was precluded by natural barriers and by a state highway that crossed between a minority neighborhood and an all-white school:

Barriers which did not prevent enforced segregation in the past will not be held to prevent conversion to a full unitary system.[32]

(3) establish a goal for minority employment. This should be the same goal that he presumably set at his original location:[33] the employment of minorities at a level which reflects the ratio of minorities to the population as a whole in (or to their proportionate participation on the community's work force in that area.

To assure that his current minority employees are not deprived of employment, the employer should:

(1) notify all employees that they will be able to continue employment with the company if they choose to do so.

(2) make the appropriate commuting and housing arrangements (see above) for those who choose to continue with the employer.

(3) offer those who choose not to relocate assistance in obtaining comparable positions with other employers.[34]

In addition to remedying specific violations, the Commission should take general steps to implement its policy. Pursuant to Section 709(c), the Commission should require all employers to keep records concerning their planning with respect to plant location and to report on their efforts to assure equal employment opportunity when they are contemplating a move. Such a reporting system would serve to alert the employer to his legal obligations and would give the Commission an opportunity to become involved in relocation at the planning stage.

The Commission should also prepare Guidelines concerning plant relocation. The preparation of the Guidelines will educate the Commission on this problem. The Guidelines themselves will alert employers to their obligations and strengthen the litigation position of victims of discriminatory relocation.[35]

FOOTNOTES

[1] *Opening Statement of Dr. Stephen Horn*, Vice-Chairman, United States Commission on Civil Rights, at Washington, D.C. Hearings, June 15, 1971.

[2] *Rush to the Suburbs: Business Also Deserts City*, The Evening Star (Washington, D.C.), June 15, 1971, page A–14.

[3] A recent St. Louis study found that while the number of jobs in Greater St. Louis had increased fivefold in the past twenty years, the number of jobs in the city of St Louis had declined by over 20%. *Statement on Hearing Before the U.S. Commission on Civil Rights in St. Louis, Missouri*—January 14–17, 1970.

[4] Thus, the 1970 census shows that in metropolitan areas with one million or more residents, 54% of the whites earning less than $4,000 per year live in suburbia while 14% of the blacks earning less than $4,000 per year live in suburbia.

[5] The lower courts have consistently articulated identical standards. *Jones* v. *Lee Way Motor Freight*, 431 F. 2d 245 (C.A. 10, 1970); *Papermakers, Local 189* v. *U.S.*, 416 F. 2d 980 (C.A. 5, 1969); *Parham* v. *Southwestern Bell Telephone Co.*, 433 F. 2d 421 (C.A. 8, 1970); *Gregory* v. *Litton Systems*, 316 F. Supp. 401 (C.D. Calif., 1970).

[6] *Parham* v. *Southwestern Bell Telephone, supra; U.S.* v. *Frazer*, — F. Supp. —, 2 FEP Cases 847 (M.D. Ala., 1970); *Clark* v. *American Marine Corp.*, 304 F. Supp. 603 (E.D. La., 1969).

[7] It would be no defense that the relocation will have the same effect on individual white and minority employees who are similarly situated (e.g., are of low-income). *Jones* v. *Lee Motor Freight, supra*. The disparate effect on minorities as a class constitutes the *prima facie* violation.

[8] *Sanchez* v. *Standard Brands*, 431 F. 2d 455 (C.A. 5, 1970); *Graniteville Co.* v. *EEOC*, 438 F. 2d 32 (C.A. 4, 1971).

[9] *Sanchez* v. *Standard Brands, supra; Dean* v. *Ashling*, 409 F. 2d 754 (C.A. 5, 1969).

[10] *U.S.* v. *Sheet Metal Workers, Local 36*, 416 F. 2d 123 (C.A. 8, 1968); *Asbestos Workers Local 53* v. *Vogler*, 407 F. 2d 1047 (C.A. 5, 1969).

[11] *U.S.* v. *Papermarkers & Paperworkers, Local 189*, 415 F. 2d 980 (C.A. 5, 1969) *cert. denied* 379 U.S. 919 (1970).

[12] *Jones* v. *Lee Way Motor Freight, supra; Parham* v. *Southwestern Bell, supra; U.S.* v. *Dillon Supply Co.*, 429 F. 2d 800 (C.A. 4, 1970).

[13] *NLRB* v. *LEWIS*, 246 F. 2d 886 (C.A. 9, 1957).

[14] *Bowe* v *Colgate-Palmolive Co.*, 416 F. 2d 711 (C.A. 7, 1969).

[15] *Pettway* v. *American Cast Iron Pipe Co.*, 411 F. 2d 998 (C.A. 5, 1969).

[16] *Griggs* v. *Duke Power Co., supra; Diaz* v. *Pan American Airways*, —— F. 2d ——, 3 FEP Cases 337 (C.A. 5, 1971); *Jones* v. *Lee Way Motor Freight, supra; Gregory* v. *Litton, supra; Hicks* v. *Crown Zellerbach Corp.*, —— F. Supp. —— 2 FEP Cases 1059 (E.D. La., 1970).

[17] "The desire of a union to insure family security by restricting new membership to the sons and close relatives of present members may constitute a legitimate 'business purpose.' But it cannot override the racial impact where present union membership is all-white. *See* Local 53, International Association of Heat & Frost Insulators and Asbestos Workers v. Vogler, 407 F. 2d 1047 (5th Cir. 1959)." (Footnote in Court's opinion.)

[18] "In the *Griggs* case the Supreme Court held that Congress has placed on the employer the burden of showing that any given requirement must have a manifest relationship to the employment in question." 39 U.S.L.W. at 4319. The Court concluded that Duke Power failed to carry that burden in arguing that its educational standards were necessary to upgrade the quality of the work force:

"On the record before us, neither the high school completion requirement nor the general intelligence test is shown to bear a demonstrable relationship to successful performance of the jobs for which it is used." 39 U.S.L.W. at 4319. (Footnote in Court's opinion).

[19] "It should go without saying that a practice is hardly 'necessary' if an alternative practice better effectuates the intended purpose or is equally effective but less discriminatory. Thus, with regard to testing, the the Equal Employment Opportunity Commission guidelines stipulate that where technically feasible, a test should be validated for each minority group with which it is used; that is, any differential rejection rates that may exist, based on a test, must be relevant to performance on the jobs in question." 29 C.F.R. S 1607.4(a). (Footnote in Court's opinion).

[20] We are aware of only two cases which even appear to reach that result: *Colbert* v. *M.K. Corp.*, — F. Supp. — 2 FEP Cases 951 (N.D. Ga., 1970) and *Williams* v. *American St. Gobain Corp.*, — F. Supp. — 2 FEP Cases 331 (E.D. Okla., 1969). The Fifth Circuit recently remanded *Colbert* to the District Court and in *Williams* it is not clear that the complainants succeeded in establishing a disparate effect; the Court's language there with regard to business necessity may not be central to its ruling.

[21] See also *U.S.* v. *Bethlehem Steel*, —F. 2d—, (C.A. 2, Docket No. 35183, June 21, 1971).

[22] See Note 2, *supra*.

[23] Even if the employer did prove that relocation would improve his competitive position, the Courts might not agree that this particular competitive advantage was essential to the primary function of a business. Thus, in the *Diaz* case, the Fifth Circuit held that the primary function of Pan American's business was transporting passengers, and that the extra cost that Pan American would incur in selecting and training male cabin attendants did not interfere with the achievement of the Airline's primary function. *Cf. Jones* v. *Lee Way Motor Freight, supra*.

In addition there is a question as to whether this particular competitive advantage constitutes a lawful advantage. If an employer improves his competitive position by discriminating, he should not be allowed to enjoy the profits of his discrimination at the expense of those other employers who do not discriminate.

[24] *Jones* v. *Lee Way Motor Freight, supra*.

[25] *Jenkins* v. *United Gas Corp.*, 400 F. 2d 28 (C.A. 5, 1968); *Clark* v. *American Marine, supra*.

[26] *Allen* v. *Board of Public Instruction of Broward County, Fla.*, 432 F. 2d 362 (1970); *Swann* v. *Charlotte-Mecklenberg Bd. of Education*, 91 S. Ct. 1267 (1971).

[27] *Bowe* v. *Colgate-Palmolive, supra; NLRB* v. *Rutter-Rex Mfg. Co.*, 90 S. Ct. 417 (1969).

[28] See, for example, *Quarles* v. *Phillip Morris*, 279 F. Supp. 505 (E.D. Va., 1968).

[29] In the discussion below, it is not suggested that an employer return his plant to its original site or cancel a proposed move. The NLRB has taken the position that a return will be ordered only in the most extreme circumstances, and even then only when the employer rejects alternative remedies. *Ronre Products Co.*, 77 NLRB 1217.

The Commission should take a similar approach—the return of a plant to the city will contribute much less to the harmony and integration of our nation's races than an intelligently planned move to suburbia.

[30] See, Note 6, *supra*.

[31] See *Klotz & Co.*, 13 NLRB 1746 (1939); *New Madrid Mfg. Co.*, 104 NLRB 117 (1953).

[32] *Henry* v. *Clarksdale Municipal Separate School District*, 433 F. 2d 387 (C.A. 5, 1970).

[33] This practice was impliedly sanctioned by the Supreme Court in *Swann, supra*, and explicitly approved by the Third Circuit in the Philadelphia Plan case. *Contractors' Association* v. *Schultz*, — F. 2d —, 3 FEP Cases 395 (C.A. 3, 1971).

[34] This would be especially appropriate for minority females who are unable to relocate because of their spouses' employment situations.

[35] See *Griggs* v. *Duke Power*, supra, 91 S. Ct. at 855.

Mr. ALLEN. Mr. President, this lifting of a corner of the curtain on EEOC activities should be disquieting to every Member of the Senate. To my way of thinking, it suggests that the appropriate committees of both Chambers of the Congress ought to look much more thoroughly at what the Commission is doing. Granted that business relocations from urban to suburban areas undoubtedly present a problem to the communities where they occur. But they do not rise to the level of a threat which warrants the adoption of an abomination in the name of equal employment opportunity which shows a contemptuous disregard for the essential freedoms of American citizens and strikes dangerously at the foundations of American life.

It should not for a moment be overlooked that the architects of the memorandum do not propose to limit the power sought to giant business organizations such as General Motors, United States Steel, IBM, Procter & Gamble, General Electric, or the like. Remember, if this bill is passed, business establishments

having eight or more employees will be subject to the sweeping new authority conferred upon the Commission. This means such small businesses as the corner drugstore, the neighborhood restaurant, the local automobile repair shop and thousands upon thousands of other small business enterprises, including the so-called "mom and pop" establishments, could be subject to constant harassment by EEOC agents in connection with proposed business relocations.

Under our free economic system, it has never been seriously questioned that a small businessman has the right to set himself up in business, to select the site of his establishment on the basis of such market considerations as he might, within his own free and uncontrolled discretion, consider advantageous to his undertaking, and to do all this without hindrance or interference. Indeed, our history of free location or relocation of business has been one of the reasons for our unparalleled economic success because our free enterprise system has, by its very fundamental nature, allowed men of ability to create, to build, to develop something for themselves on the basis of mobility. It has always been recognized that in the development of any business, any man who invests capital, any man who operates a business, must have the freedom to choose where he wishes to operate or relocate. That is the only way an owner can operate if he expects to remain a part of a free, competitive economy.

But the power which the EEOC is attempting to confer upon itself could utterly destroy the right of the owner of a business, whether large or small, to select where he wants to operate. Under the guise of promoting fair employment practices, the EEOC would be vested with the right to compel a person or a corporation to do business where the Commission commands. And remember, the EEOC could not only concern itself with the relocation of businesses, but also with the location of a new business in the first instance; in fact, the memorandum uses the term "location" instead of "relocation" on several occasions.

Let us consider how the EEOC could operate against a small businessman who has been charged with committing an unlawful employment practice because he wants to relocate his business.

Suppose there is the owner of a small restaurant located in a neighborhood which is experiencing a high incidence of crime. Suppose further than the restaurant has been robbed once or twice and that some of the owner's waitresses have either been mugged or the victims of purse snatchings. Let us also suppose that, as a result of this unfavorable neighborhood climate, the patrons of the restaurant are becoming fewer, particularly in the evenings, but the owner is still managing to make a small return on his investment.

Despite the fact that he is still barely operating in the black, the restaurant owner reaches the decision that it would be better for him to close down his restaurant for the reasons I have just outlined and relocate it in an outlying area, perhaps in the suburbs or just across the State line. The owner determines that the new location might not be the most desirable site; in fact, he anticipates that he will initially operate in the red. But the new location is relatively free of crime and the owner is confident that in due time his new restaurant will become a going enterprise. It is, at best, a risky venture, but one which is in keeping with adventurous spirit of our free economic system.

So, the owner commissions an architect to prepare the blueprints for his new establishment and borrows money from his bank to purchase a new lot and to construct and furnish his new restaurant. He may even obtain a loan from the Small Business Administration to furnish the working capital for his new enterprise. All is going well for the small businessman until someone in the neighborhood where he is presently situated learns of his impending move and so advises the Equal Employment Opportunity Commission.

An EEOC Commissioner, either on his own motion or acting through a subordinate, could firmly, but politely, tell the small businessman that he could not move his business because "the community from which you are moving has a higher percentage of minority workers than the community to where you are moving. In addition, you are moving so far away from the community where you are presently located that the shift adversely affects the employment situation of your minority employees inasmuch as they are in no position to accompany you and cannot find similar jobs in the community where you are presently located."

The employer could vainly protest that the move is necessary because the neighborhood where he is presently situated is crimeridden and dangerous to human life. He could point out that he has been robbed, that some of his employees have been assaulted, and that business is falling off because many of his customers no longer patronize his establishment.

"None of this makes any difference," the Commissioner could reply, "because you have not met the criteria I have just set forth. You are depriving minority workers of employment opportunities by virtue of your move; hence, the move is denied because, in our opinion, it does not serve a valid business purpose."

The Commissioner could add, "Now, if you do not stay where you are presently located, I will put the law to you in an action or proceeding under title VII in which all the legal and financial might of the Federal Government will be arrayed against you and in which you will be denied such basic safeguards as the right of trial by jury."

The restaurant owner could then do one of three things. First, he could submit to the threats of the EEOC, thus permitting a Federal agency to dictate how and where his business will continue to function.

Second, he could close the doors of his restaurant and by putting all of his employees on the unemployment rolls, he could escape further EEOC harassment.

Third, he could stand up and fight for his convictions, even to the point of defending a lawsuit in a Federal district court under title VII as presently written or by way of the cease-and-desist procedure with only limited appellate review if S. 2515 becomes law.

If the small businessman should pursue the latter course and win, he could conceivably bankrupt himself in defraying the cost of his successful defense. Let me again remind the Senate that S. 2515 would provide attorneys' fees for a charging party, but if the respondent restaurant owner wins his case, he gets nothing.

In addition, if the restaurant owner should pursue the alternative of fighting for his convictions and lose, he could conceivably wind up being sentenced to jail by a Federal judge sitting without a jury because he truthfully felt that no bureau of the Federal Government should compel him to stay in an undesirable location.

We, thus, see how the odds will be heavily weighed against the owner of a small business with limited resources to establish that he is not guilty of an unlawful employment practice. It is clear that the coercive and oppressive power which could be so wielded by the EEOC could destroy utterly thousands of small private businesses in the manner which I have just described.

Like S. 2515, the memorandum is, in its essential features, a wicked and antilibertarian attack on the rights of individuals and on the whole concept of due process of law.

In principle, there is no difference between S. 2515 and the memorandum. Both would deny basic rights of a majority of American citizens to protect the alleged rights of a few. As between S. 2515 and the memorandum, one denies them by the dozen, while the other merely denies them 12 at a time. If either of these proposals constitutes equality—particularly when the overwhelming might and power of the Federal Government is arrayed against an employer, a State or local government, a union, or a school who dares defy the EEOC—then I just do not understand the meaning of the term.

In his state of the Union address last year, President Nixon pledged to the American people that he was going to bring the vast Federal bureaucracy under control. The President said:

> The further away government is from the people, the stronger government becomes and the weaker people become. And a nation with a strong government and a weak people is an empty shell.

Later on in his remarks the President said:

> The idea that a bureaucratic elite in Washington knows best what is best for people everywhere and that you cannot trust local governments is really a contention that you cannot trust the people to govern themselves. This notion is completely foreign to the American experience.

Apparently no one down at the Equal Employment Opportunity Commission took the time to read the President's speech. I should like to suggest to the President that if he wants to find a "bureaucratic elite" which is running out of control, he need look no further than his own Equal Employment Opportunity Commission.

At this point, I wish to remind and commend to the Senate one of the greatest passages ever contained in an opinion

by one of the great liberal and great Supreme Court Justices of our time, Mr. Justice Brandeis. He declared:

> The makers of our Constitution undertook to secure conditions favorable to the pursuit of happiness. They recognized the significance of man's spiritual nature, of his feelings, and of the intellect. They knew that only a part of the pain, pleasure, and satisfactions of life are to be found in material things. They sought to protect Americans in their beliefs, their thoughts, their emotions, and their sensations. The conferred, as against the Government—the right to be let alone, the most comprehensive of rights and the right most valued by civilized men.

When we weigh this bill and when we look beyond and behind it and see it in its true and unmasked form, we see that it is at variance with the fundamental concept that our Government should be a government by law and not a government by men.

I urge the Senate to carefully scrutinize S. 2515 as a whole and condemn the legislation when it has done so as insulting to American principles. The aim of law must be to enlarge liberty, not extinguish it.

Mr. President, in recent years we have already seen many of our sacred rights laid on the altar of political expediency. This bill would put us well along the way to the erosion of other freedoms we now know and enjoy and on which the American system is built.

Let us return to reason. Let us turn away from the dangers inherent in S. 2515. Let us not be counted among the communicants at the altar of expediency.

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971—CORRECTING THE EEO DEFICIENCIES IN THE 1964 CIVIL RIGHTS ACT

Mr. CRANSTON. Mr. President, I rise in support of S. 2515 as reported from committee, the proposed Equal Employment Opportunities Enforcement Act of 1971, which I am pleased to join in cosponsoring with the Senator from New Jersey (Mr. WILLIAMS) who serves as the chairman of the Committee on Labor and Public Welfare, on which I am privileged to serve, and with a bipartisan group of 31 of my colleagues.

Mr. President, I would like to congratulate Chairman WILLIAMS for his dedication and hard work in the development of the legislation we have before us. Senator WILLIAMS held extensive hearings on this measure, and with the help of his most able staff—particularly Gerald Feder, counsel to the Labor Subcommittee, and Donald Elisburg, associate counsel—worked long and diligently so that S. 2515 could be considered by the Senate as the first item on the agenda this session. The fruit of his efforts is a piece of civil rights legislation which is critical to our total effort to end discrimination in America.

The Equal Employment Opportunity Commission was established by the Civil Rights Act of 1964 to deal with the problem of discrimination in employment. The Commission was not, however, given the legal powers necessary to fulfill its mandate, and thus its authority in cases of discrimination based on race, color, religion, sex, or national origin has been limited to conciliation efforts alone. The provisions of S. 2515 as reported from committee would provide the EEOC with the legal muscle it needs to enforce its findings of discrimination. The bill as it has been amended on the floor is less strong certainly, but still a long stride forward.

BACKGROUND

In the last Congress, both bodies of the Congress developed, and the Senate passed, legislation to give the EEOC the enforcement powers it required. S. 2453 of last Congress was also introduced by the distinguished Senator from New Jersey (Mr. WILLIAMS). It successfully passed the Senate, but the House adjourned before the bill could be brought to the floor for a vote.

This year, it was the House which acted first on this vital legislation. During the first week of May, the House Education and Labor Committee approved by a vote of 21 to 12 H.R. 1746, to give tough enforcement powers to the EEOC. Unfortunately, when this, the Hawkins bill, came to the floor of the House for a vote, it was passed with what I and other proponents of a strong enforcement measure viewed as a most unfortunate substitute. The Erlenborn substitute, which was agreed to by only the narrowest margin, provided for court enforcement powers in lieu of the tougher cease-and-desist authority which I believe is so vital to attacking discrimination in hiring.

Subsequently, the Labor and Public Welfare Committee considered the House-passed measure along with S. 2515. The legislation favorably reported by the committee, unlike the House version, extends the scope and coverage of the equal employment opportunity provisions of the Civil Rights Act of 1964, provides for strong methods of enforcement, and consolidates in the EEOC a number of existing Federal programs aimed at ending job discrimination. In addition, the committee adopted several important changes, one of which I am pleased to say is a result of an amendment I offered to deal with discrimination in Federal Government employment and to open up more and better paying jobs in the Federal sector for Mexican Americans, blacks, Indians, orientals, women, and other minorities.

EQUAL OPPORTUNITY IN FEDERAL GOVERNMENT EMPLOYMENT

My Federal Government EEO amendment included in the committee bill would:

First. Put the Congress on record in favor of maximum affirmative action under Civil Service Commission direction to provide Federal jobs and real advancement opportunities for minority groups in Federal service. At the present time, the CSC derives its authority to act against discrimination from Executive order.

Second. Specifically charge the Civil Service Commission with the responsibility to require all agencies to draw up affirmative action plans and see that they are carried out.

Third. Entitle an employee to back pay if discrimination has been found to exist—the Government has insisted it does not have legal authority to make such awards.

Fourth. Direct the Civil Service Commission to publish, twice a year, employment studies, agency by agency and for every large metropolitan area, to indicate progress in eliminating discrimination in Federal employment.

Fifth. For the first time, permit Federal employees to sue the Federal Government in discrimination cases—under the theory of Federal sovereign immunity, courts have not generally allowed such suits—and to bring suit either prior to or after CSC review of the agency EEO decision in the case. As with other cases brought under title VII of the Civil Rights Act of 1964, Federal district court review would not be based on the agency and/or CSC record and would be a trial de novo.

Mr. President, the Federal Government must be a model of equal employment opportunity.

This requires that Federal agencies make a special effort to employ and promote qualified minority persons according to their relative proportions in the population of the area surrounding agency field offices. Although statistics available to me show that there has been some recent improvement, the situation is by no means satisfactory. In many instances, Federal minority employment remains disgracefully low. There is a national pattern of disproportionately low employment of certain minorities and a definite pattern of exclusion of minorities, when they are employed, from the higher, better-paying Government positions.

We must provide meaningful opportunities for advancement, training, and education in service in order to qualify minority group persons for the higher and better-paying jobs, as well as to open up entry level jobs.

At the present time, although minority groups make up 19.4 percent of the total number of Federal employees, approximately 80 percent are locked into grades 1 through 8 and account for 27.3 percent of the lowest four GS—General Schedule—grades. Minority employees hold only 3.3 percent of the jobs at grades GS 14 and 15 and only 2 percent of those at Grades GS 16 through 18. An examination of the jobs held by the highest ranking minority group employees discloses that a large number of them are working only in civil rights-related fields. We find this shocking pattern of exclusion in the very agency responsible for creating equal employment opportunity in the Federal Government—the Civil Service Commission. Of the Commission's 53 top jobs, only two are held by blacks, one of whom is a civil rights official.

In my own State of California, Mr. President, where at least 15.6 percent of the population is Spanish-surnamed, I find similar discrepancies in Federal minority group employment based on local populations. I am shocked that in my State only 5.6 percent of all Federal jobs, and in certain agencies even fewer of the jobs, are filled by Spanish-surnamed persons. In many instances, the statistics for other minorities are just as disturbing and inequitable.

In Los Angeles, for example, minority group employees make up 34 percent of all Federal employees, but white Anglo employees hold 95.4 percent of the top

jobs in grades GS 14 and above. In contrast, minority group members hold nearly half of the positions in the very lowest grades there—42 percent in GS 1 through 8—often doing the most menial work with little or no opportunity to advance to management, supervisory or policymaking positions—only 6 percent in GS 14 through 18.

The largest minority in Los Angeles, the Spanish-surnamed Americans, makes up at least 18 percent of the population, but holds only 6.2 percent of the total number of Federal jobs there. And the record of Chicano employment in certain agencies is even more disproportionate.

Moreover, in virtually every agency there is evidence of a serious lack of upward mobility opportunity for Spanish-surnamed employees. They hold only 25 of the 1,342 Federal positions above GS–14 in the Los Angeles SMSA, and only 55 of those top 5,042 positions statewide. This is grossly inadequate and must be rectified.

In contrast, the overall employment rate for blacks in the Los Angeles area appears to be equitable—25 percent of all Federal jobs there. However, most of their jobs are found in the entry-level, lower-paying jobs—32.6 percent of all jobs at GS–1 through 4—indicating a clear lack of upward mobility in the Federal employment of blacks. In Los Angeles, for example, blacks hold only 22 of the 1,342 Federal positions above GS–14, and statewide hold only 60 of those top 5,042 positions. This highly unfortunate pattern is repeated in similar fashion in most of the other SMSA's in California.

Mr. President, because of the seriousness of the situation in the Los Angeles area, I have asked for a special investigation by the Civil Service Commission. I have also sent letters to the heads of each Federal agency which has installations in California, outlining in detail their minority employment records. In addition, I have asked each of these agency heads to submit reports on the efforts each is taking to overcome discrimination in their Federal hiring and their efforts toward increasing upward mobility for their minority employees. I ask unanimous consent, Mr. President, that my February 7 letter to the Chairman of the U.S. Civil Service Commission be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CRANSTON. I also ask unanimous consent to have included at this point in the RECORD charts which my office has compiled from Civil Service Commission employment data and U.S. Census figures indicating the percentages of Federal minority group employees in the California SMSA's compared to their total percentage within the local population, followed by a 1969 and 1970 Minority Group Employment Study of Federal Employment in California which indicates the declining percentages of minority employment as the GS level inclines, compared to the ascending percentages of all other employees.

There being no objection, the charts were ordered to be printed in the RECORD, as follows:

Area (SMSA)	Total population [1]				Total Federal employment [2]				
		Percent				Percent			
	Population	Spanish surnamed [3]	Blacks	American Indian	Employment	Spanish surnamed	Blacks	American Indian	Other white
Statewide California	19,953,134	15.6	7.0	0.46	293,770	5.6	14.9	0.5	75.0
Los Angeles/Long Beach	7,032,075	18.0	10.8	.35	66,475	6.2	25.0	.3	65.9
San Francisco-Oakland (Alameda)	3,109,519	14.0 / 13.0	10.6	.41 / .53	73,408	3.8	22.8	.4	65.1
Sacramento	800,592	9.0	4.7	.42	27,390	4.6	7.5	.5	84.1
Fresno	413,053	25.0	4.9	.52	2,703	10.7	4.6	.6	81.8
San Diego	1,064,714	13.0	4.6	.43	29,272	6.2	8.0	.4	82.5
San Bernadino-Ontario/Riverside	1,143,146	16.0 / (4)	4.4	.51 / .6	13,121	11.8	6.2	1.3	80.1
San Jose (Santa Clara)	1,064,714	18.0	1.6	.38	8,442	6.9	6.6	.4	81.4

[1] From official U.S. Census Bureau, 1970.
[2] From U.S. Civil Service Commission report "Minority Group Employment in the Federal Government," 1970.
[3] County.
[4] Not available.

TABLE 3-6.—1970 MINORITY GROUP STUDY, CALIFORNIA: FULL-TIME EMPLOYMENT AS OF NOV. 30, 1970

Pay system	Total full-time employees number	Negro		Spanish surnamed		American Indian		Oriental		All other employees	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Total all pay systems	293,770	43,711	14.9	16,506	5.6	1,352	0.5	11,855	4.0	220,356	75.0
Total general schedule or similar	127,679	11,417	8.9	4,423	3.5	627	.5	4,698	3.7	106,514	83.4
GS–1 through GS–4	29,511	5,239	17.8	1,516	5.1	225	.8	1,027	3.5	21,504	72.9
GS–5 through GS–8	36,330	4,349	12.0	1,523	4.2	210	.6	1,577	4.3	28,670	78.9
GS–9 through GS–11	35,228	1,323	3.8	981	2.8	127	.4	1,358	3.9	31,639	89.2
GS–12 through GS–13	21,568	446	2.1	347	1.6	54	.3	630	2.9	20,091	93.2
GS–14 through GS–15	4,857	58	1.2	54	191	11	.2	106	2.2	4,628	95.3
GS–16 through GS–18	185	2	1.1	1	.5					182	98.4
Total wage systems	84,780	14,774	17.4	6,805	8.0	481	.6	4,030	4.8	58,690	69.2
Up through $5,499	221	43	19.5	39	17.6	3	1.4	4	1.8	132	59.7
$5,500 through $6,999	6,822	2,145	31.4	618	9.1	38	.6	751	11.0	3,270	47.9
$7,000 through $7,999	10,746	2,585	24.1	1,332	12.4	63	.6	655	6.1	6,111	56.9
$8,000 through $8,999	19,130	4,794	25.1	1,843	9.6	132	.7	784	4.1	11,577	60.5
$9,000 through $9,999	30,589	4,127	13.5	2,165	791	172	.6	1,314	4.3	22,811	74.6
$10,000 through $13,999	16,156	1,065	6.6	785	4.9	68	.4	516	3.2	13,722	84.9
$14,000 through $17,999	951	14	1.5	22	2.3	5	.5	5	.5	905	95.2
$18,000 and over	165	1	.6	1	.6			1	.6	162	98.2
Total postal field service	79,602	17,397	21.9	5,231	6.6	242	.3	3,087	3.9	53,645	67.4
PFS–1 through PFS–5 [1]	66,911	15,251	22.8	4,609	6.9	206	.3	2,506	3.7	44,339	66.3
PFS–6 through PFS–9	10,388	1,975	19.0	562	5.4	35	.3	512	4.9	7,304	70.3
PFS–10 through PFS–12	1,729	131	7.6	47	2.7	1	.1	55	3.2	1,496	86.5
PFS–13 through PFS–16	522	39	7.5	12	2.3			13	2.5	458	87.7
PFS–17 through PFS–19	49	1	2.0	1	2.0			1	2.0	46	93.9
PFS–20 through PFS–21	3									3	100.0
Total other pay systems	1,709	113	6.6	47	2.8	2	.1	40	2.3	1,507	88.2
Up through $6,499	535	81	15.1	25	4.7	1	.2	25	4.7	403	75.3
$6,500 through $9,999	464	25	5.4	16	3 4	1	.2	8	1.7	414	89.2
$10,000 through $13,999	316	2	.6	4	1.3			4	1.3	306	96.8
$14,000 through $17,999	141	2	1.4	2	1.4			2	1.4	135	95.7
$18,000 through $25,999	164	3	1.8					1	.6	160	97.6
$26,000 and over	89									89	100.0

[1] Includes 4th class postmasters and rural carriers.

Source: From the U.S. Civil Service Commission study: "Minority Group Employment in Federal Government" Nov. 30, 1970.

TABLE 3-6a.—1969 MINORITY GROUP STUDY, CALIFORNIA

FULL-TIME EMPLOYMENT AS OF NOV. 30, 1969

Pay system	Total full-time employees number	Negro		Spanish surnamed		American Indian		Oriental		All other employees	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Tota. all pay systems	300,745	43,733	14.5	16,556	5.5	1,375	0.5	11,744	3.9	227,337	75.6
Total general schedule or similar	128,812	11,069	8.6	4,224	3.3	642	.5	4,502	3.5	108,375	84.1
GS-1 through GS-4	31,883	5,513	17.3	1,573	4.9	254	.8	1,098	3.4	23,445	73.5
GS-5 through GS-8	36,248	3,925	10.8	1,404	3.9	196	.5	1,511	4.2	29,212	80.6
GS-9 through GS-11	35,095	1,206	3.4	905	2.6	132	.4	1,264	3.6	31,588	90.0
GS-12 through GS-13	20,785	380	1.8	290	1.4	53	.3	535	2.6	19,527	93.9
GS-14 through GS-15	4,628	44	1.0	51	1.1	7	.2	94	2.0	4,432	95.8
GS-16 through GS-18	173	1	.6	1	.6					171	98.8
Total wage systems	93,288	15,803	16.9	7,250	7.8	509	.5	4,276	4.6	65,450	70.2
Up through $5,499	1,749	175	10.0	237	13.6	4	.2	217	12.4	1,116	63.8
$5,500 through $6,999	14,094	3,710	26.3	1,390	9.9	71	.5	1,143	8.1	7,780	55.2
$7,000 through $7,999	20,753	4,723	22.8	2,187	10.5	137	.7	883	4.3	12,823	61.8
$8,000 through $8,999	28,706	4,603	16.0	2,041	7.1	178	.6	1,144	4.0	20,740	72.2
$9,000 through $9,999	16,866	2,025	12.0	977	5.8	82	.5	611	3.6	13,171	78.1
$10,000 through $13,999	10,578	564	5.3	408	3.9	37	.3	274	2.6	9,295	87.9
$14,000 through $17,999	462	3	.6	10	2.2			4	.9	445	96.3
$18,000 and over	80									80	100.0
Total postal field service	77,012	16,751	21.8	5,044	6.5	221	.3	2,943	3.8	52,053	67.6
PFS-1 through PFS-5[1]	65,811	15,133	23.0	4,547	6.9	187	.3	2,447	3.7	43,497	66.1
PFS-6 through PFS-9	9,101	1,491	16.4	448	4.9	33	.4	448	4.9	6,681	73.4
PFS-10 through PFS-12	1,596	104	6.5	39	2.4	1	.1	37	2.3	1,415	88.7
PFS-13 through PFS-16	463	22	4.8	10	2.2			10	2.2	421	90.9
PFS-17 through PFS-19	38	1	2.6					1	2.6	36	94.7
PFS-20 through PFS-21	3									3	100.0
Total other pay systems	1,633	110	6.7	38	2.3	3	.2	23	1.4	1,459	89.3
Up through $6,499	577	85	14.7	22	3.8	2	.3	11	1.9	457	79.2
$6,500 through $9,999	514	21	4.1	14	2.7	1	.2	9	1.8	469	91.2
$10,000 through $13,999	188			2	1.1			1	.5	185	98.4
$14,000 through $17,999	168	1	.6					2	1.2	165	98.2
$18,000 through $25,999	106	2	1.9							104	98.1
$26,000 and over	80	1	1.3							79	98.8

[1] Includes 4th class postmasters and rural carriers.

Mr. CRANSTON. Mr. President, I do not have the statistics on the Federal employment trends for women within California, but I do have information for the national level which I am sure will be of interest to my colleagues. These statistics show employment discrepancies with women holding 76.4 percent of all-white-collar Federal jobs at GS–2, 79.1 percent of those jobs at GS–3, and 75.9 percent at GS–4. Yet at the higher levels of white-collar employment women hold only 1.8 percent of the jobs at GS–16, 1.5 percent at GS–17, and 0.6 percent at GS–18. These deeply distressing statistics are more fully set forth in an additional chart which is included as an attachment to my February 7 letter to the Chairman of the Civil Service Commission, which will be set forth at the end of my remarks.

With respect to the employment of American Indians, Mr. President, although they make up 0.46 percent of California's population and comprise 0.5 percent of the State's Federal Government employment, some Federal agencies employ well below this level and others employ no Indians at all.

My amendment, then, adds to title VII of the Civil Rights Act a new section 717 making clear the obligation of the Federal Government to insure that all personnel actions are free from discrimination based on race, color, sex, religion, or national origin. The Civil Service Commission is mandated under this title to enforce an affirmative equal employment opportunity program in the Federal Government.

I want to express my gratitude to Chairman WILLIAMS and the ranking minority member of the committee (Mr. JAVITS)—and his minority counsel, Gene Mittleman—for their support of my amendment. I also want to thank the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Colorado (Mr. DOMINICK), who joined with me as cosponsors, for their cooperation in this amendment.

I urge my colleagues to consider carefully these new provisions—section 11 of S. 2515—and to approve the bill with this amendment unchanged.

I would like now to discuss some of the other major provisions of S. 2515 as reported from committee.

EXTENSION OF COVERAGE

Mr. President, section 2 of the bill amends section 701 of the Civil Rights Act of 1964 to extend coverage to the following groups: First, employees of private employers with 15—eight as reported from committee—or more workers and members of unions with 15—also eight originally—or more members, to become effective 1 year after enactment of the law; the present limit is 25; second, State and local government employees; and third, teachers and other employees of educational institutions.

The committee agreed with the Chairman of the EEOC that discrimination must be attacked wherever it exists. We recognize that smaller establishments have frequently been among the most flagrant violators of equal employment opportunity. It was for this reason that coverage under S. 2515 as reported from committee was extended to groups of eight or more workers. The compromise to reduce from 25 to 15 is still a significant step forward. The delay in the effective date of this provision was included to insure that the Commission would have adequate time to prepare to assume and carry out effectively these new responsibilities.

The bill also deletes the existing exemptions for State and local government employees but provides for enforcement through civil actions brought by the Attorney General rather than through cease-and-desist orders. I believe this is a desirable compromise rather than empowering a Federal agency—the EEOC—to order sovereign units of State and local government to take particular employment actions.

Both the Constitution and Federal law prohibit job discrimination by State and local governments, but the existence of pervasive discrimination in State and local government is all too well documented. What is lacking, however, is an effective Federal administrative machinery to enforce these prohibitions. Thus, the expansion of title VII coverage to State and local governments is necessary if we are to provide a truly effective means of implementing the declared equal employment opportunity policy of our Nation.

The existing exemption for employees of educational institutions is also eliminated by S. 2515. There are at present over 120,000 educational institutions, with approximately 2.8 million teachers and professional staff members and another 1.5 million nonprofessional staff members. Yet all of these employees are, at present, without an effective Federal remedy in the area of employment discrimination. As in other areas of employment, statistics for educational institutions indicate that minorities, and particularly women, are precluded from the more prestigious and higher paying

positions and are relegated to the more menial and lower paying positions. I believe it is essential that these employees be given the same opportunity to redress their grievances as are available to other employees in the private sector.

I have already discussed in great detail the provisions of section 11 of S. 2515, which mandates the Civil Service Commission to strengthen its programs to eliminate discrimination in Federal employment and job advancement and provides for civil suit remedy in Federal district court.

ENFORCEMENT

Section 4 of S. 2515 as reported from committee would have revised section 706 of the act to enable the EEOC to process a charge of employment discrimination through the investigation, conciliation, administrative hearing, and judicial review stages. The present act allows the Commission to pursue charges only through the informal methods of persuasion and conciliation, a factor which has proven to be seriously defective in providing an effective Federal remedy for violations of title VII.

The need to provide some form of direct enforcement power for the EEOC has been voiced since the inception of the Commission. Indeed, last Congress, during testimony before the Labor and Public Welfare Committee on S. 2453 and again this past year in testimony on S. 2515, EEOC Chairman William Brown concurred in the need for cease-and-desist authority.

The committee was not persuaded that the direct court enforcement technique, the method included in the House version, would be faster and more effective than cease-and-desist enforcement. The present, and ever increasing, overcrowded caseloads of the Federal courts is a well known fact, and measures are desperately needed to expedite trials and relieve the court dockets, not to increase their case responsibilities. There is ample evidence that reliance on the court enforcement approach could create an unacceptable deluge of new cases on the already previously backlogged Federal courts. In 1970 alone, for instance, there was a 63-percent increase in the filing of civil rights cases.

It was for this reason that the Labor and Public Welfare Committee, as did the House Education and Labor Committee last May, rejected the court enforcement approach. Moreover, without exception, every spokesman for the major civil rights groups who appeared before our committee strongly supported the cease-and-desist enforcement powers provided in S. 2515.

The major benefits of the cease-and-desist approach are that: First, it would encourage early settlement of claims, thereby further alleviating the courts and providing quick relief for aggrieved individuals; second, it is the type of authority given to many other Federal regulatory agencies, including the National Labor Relations Board, the Department of Justice, the Interstate Commerce Commission, the Department of Labor, and the Department of Health, Education, and Welfare, to name but a few; third, it is the type of enforcement authority preferred by 32 of the 37 States which have equal employment opportunity laws; fourth, it would insure a unified approach to the problems of discrimination since decisions would be rendered by one agency rather than several hundred district court judges; and fifth, it would provide the needed expertise in recognizing and solving the more subtle, institutional forms of discrimination.

The enforcement authority in S. 2515 as reported from committee provided that employees of private employers would have their rights enforced by the EEOC through administrative complaint and hearing after investigation and conciliation of charges. If the EEOC found an unlawful employment practice, it could have issued cease-and-desist orders subject to review in U.S. courts of appeals.

In my judgment, cease-and-desist authority was, by far the stronger and more workable enforcement mechanism. However, the Senate has voted by a narrow margin to substitute district court suits to enforce EEOC findings. This is better than no EEO enforcement mechanism at all, and I believe that civil rights groups, and the minority community generally will make the most of this new remedy.

CONSOLIDATION OF ENFORCEMENT FUNCTIONS

Mr. President, section 5 of S. 2515 would transfer from the Attorney General, as granted under section 707 of present law—to the EEOC the authority to bring "pattern or practice" suits directly in the Federal district courts. This transfer would take place over a period of 2 years, with the EEOC and the Attorney General having concurrent jurisdiction during this time. This transfer to the Commission should also help the Federal Government pursue a more unified attack upon employment discrimination.

Section 10 of S. 2515 as reported would have provided for the transfer from the Department of Labor to the Commission of the authority, functions, and responsibilities of the Office of Federal Contract Compliance—OFCC—authority, which presently rests in Executive Order 11246—as amended by Executive Order 11375. The Executive order stipulates that Government contractors and subcontractors are required to agree to the following contract provision:

> The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin.

During committee consideration of the equal employment opportunities enforcement bill—S. 2453—in the 91st Congress, I joined with Senator KENNEDY in moving successfully to delete the provision transferring this function from the Department of Labor to the Commission.

I believed then, and I continue to believe, that it would be a mistake to consolidate all EEO functions in one Federal agency, thereby creating a single target for those who would seek to retard advancement in this field. I recognize, at the same time, that the OFCC record of achievement in this field leaves a good deal to be desired. I just am not convinced that consolidation of this function would have the net effect of improving the EEO Federal contract compliance effort.

Although I recognize that many, as fully committed to equal employment as I am, support this OFCC/EEOC consolidation, I differ with their views and thus voted for the successful amendment to delete this transfer from the bill.

In conclusion, Mr. President, although I believe the bill as reported has been weakened by floor amendments, I urge my colleagues to support it. If we are to make progress in fulfilling our commitment to equal employment opportunity for all Americans, we must make the Equal Employment Opportunity Commission a more effective instrument for preventing discrimination in employment. To this end, the extended coverage which S. 2515 provides; its new methods of enforcement, although not optimum; and its stress on Federal Government equal employment opportunity promise real gains in this long and arduous civil rights battle.

EXHIBIT 1

U.S. SENATE,
Washington, D.C., February 7, 1972.

HON. ROBERT HAMPTON,
Chairman, U.S. Civil Service Commission, Washington, D.C.

DEAR MR. CHAIRMAN: I am increasingly disturbed by the gross discrepancies in the employment of certain minorities and their lack of advancement opportunities throughout the Federal Government.

The Federal Government should be a model of equal employment opportunity. I know that you fully share this view.

This requires that Federal agencies make a special effort to employ and promote qualified minority persons according to their relative proportions in the population of the area surrounding the agency field offices. Although there has been some recent improvement, the situation is by no means satisfactory. In many instances, Federal Government minority employment remains disgracefully low. There is a national pattern of disproportionately low employment of certain minorities and a definite pattern of exclusion of minorities, when they are employed, from the higher, better-paying government positions.

In California, where at least 15.6% of the population is Spanish-surnamed, I find many such discrepancies in Federal minority group employment based on local populations. I am shocked that in my state only 5.6% of all Federal jobs, and only 5.4% of all CSC jobs, are filled by Spanish-surnamed persons. Statewide the CSC fills 16.9% of the GS 1 through 4 positions with blacks, yet blacks hold only 2 of the 85 jobs above GS 12.

In Los Angeles, for example, minority group employees make up 34% of all Federal employees, but white Anglo employees hold 95.4% of the top jobs in grades GS 14 and above. In contrast, minority group members hold nearly half of the positions in the very lowest grades there (42% in GS 1 through 8), often doing the most menial work with little or no opportunity to

advance to management, supervisory or policy-making positions (only 6% in GS 14 through 18).

The largest minority in Los Angeles, the Spanish-surnamed Americans, makes up at least 18% of the population, but holds only about 6.2% of the total number of Federal jobs there.

The Civil Service Commission's record of Chicano employment is almost as disproportionate with only 8.6% of the CSC employees having Spanish-surnames in the Los Angeles Standard Metropolitan Statistical Area (SMSA). In the San Francisco SMSA, only 4% of all CSC employees are Spanish-surnamed, as compared to the total local Chicano population share of 14%. There also is evidence of a serious lack of upward mobility opportunity for Spanish-surnamed CSC employees in San Francisco where they hold only 1 of the 102 positions above GS 9.

The data reveal that the CSC has a good record in the employment of Blacks in entry-level, lower paying jobs. But they also show a clear lack of opportunity for upward mobility on the part of Black CSC employees. In the San Francisco SMSA, Blacks, occupying 10.3% of all CSC jobs, hold 14% of the jobs between GS 1 thru 4 but only 4 of 102 jobs above GS 8 and none of the 17 jobs at GS 14 through 18. This pattern is repeated in similar fashion at most of the other CSC installations in California.

In discussing upward mobility opportunities, I am not suggesting the advancement of persons who do not meet job qualifications. Rather, special efforts must be made to offer accessible training, upgrading and ongoing educational opportunities to minority persons to prepare them for career advancement.

As a member of the Senate Labor and Public Welfare Committee, I have introduced in Committee amendments to S. 2515, the proposed "Equal Employment Opportunities Enforcement Act of 1971," which are intended to deal with discrimination in Federal Government employment and to open up more high level positions for minorities, particularly Mexican-Americans, Blacks, Indians, Orientals and women.

I am enclosing for your information a copy of the language of my amendment contained in the bill as reported to the Senate (section 11) and the Committee report language explaining the amendment along with the Committee's views (pages 12–17). I am also enclosing, for your examination and comment, charts prepared by both your office and mine showing proportionate employment and grade level breakdown both statewide and for local SMSA's, along with a copy of the *1970 Minority Group Study* (Civil Service Commission) describing in several charts the CSC's employment and advancement opportunity record in California. Unfortunately, in some instances I do not have the full in depth 1970 data on population size, especially in the cases of American Indians, Orientals and women. (I have asked the Census Bureau to supply me with this information as soon as it is available for the 1970 census.)

Although I do not have the statistics on the employment trends for women within California, I do have information for the national level. These statistics show employment discrepancies with women holding 76.5% of all white collar Federal jobs at GS 2, 79.1% of the jobs at GS 3, and 75.9% at GS 4; yet at the higher levels of employment they hold only 1.8% of the jobs at GS 16, 1.5% at GS 17, and .6% at GS 18 (see enclosed charts). With respect to the employment of American Indians, I note that whereas this minority makes up .46% of the California population and comprises .5% of the State's Federal Government employment, the Civil Service Commission in California employs no American Indians.

As a member of the Senate Committee on Labor and Public Welfare, and the Senate Committee on Housing and Urban Affairs, I am particularly concerned about the minority employment trends for the Civil Service Commission and other Federal agencies in California. I, therefore, am requesting your comments on the comparison of local population statistics to the Federal minority employment record for the areas mentioned in California, both for the Civil Service Commission itself and for each Federal Agency in California. In each situation where there are large discrepancies. I would also appreciate detailed information on the affirmative steps you and each agency concerned is taking to improve both the upward mobility and the overall employment ratios for each minority group in each particular area.

To this end, I request that you send a special team to conduct a field study of the Los Angeles Federal Government employment situation for minorities and prepare a special action plan to bring about prompt and substantial improvement. (Jonathan R. Steinberg, my Committee counsel, has already discussed this with Mr. Irving Kator, Assistant Executive Director of the Commission.) Therefore, I would hope this field study and plan, if successful, can be extended to all other appropriate areas in the state.

I am sending similar letters to the heads of each Federal agency with installations in California. I will be sending you a copy of each such letter for your review and comment. I would greatly appreciate any assistance you can provide these agencies to improve their minority employment ratios and upward mobility opportunities.

I would also appreciate your forwarding a copy of this letter and the enclosures to the head of each Civil Service Commission installation in California under your jurisdiction, and supplying me with a list of those addresses and copies of their reports.

Thank you for your valuable cooperation in this matter.

Sincerely,

ALAN CRANSTON.

MINORITY GROUP EMPLOYMENT IN THE FEDERAL GOVERNMENT, 1970—THE EMPLOYMENT STATISTICS FOR U.S. CIVIL SERVICE COMMISSION

CONTENTS (MINORITY GROUP EMPLOYMENT CHARTS)

Chart 1.—Total population chart for regions within California.

Chart 2.—Total Federal employment chart—California.

Chart 3.—Your individual agency's employment record—California.

Chart 4.—Upward mobility and trends in minority employment for your individual agency.

Chart 5.—Your agency's employment record for women—nationwide.

Chart 6.—Upward mobility and trends in employment of women for the Federal Government—nationwide.

ATTACHMENTS

1. 1970 minority group study for your agency prepared by the U.S. Civil Service Commission—November 1970. (Charts include: California statewide statistics, and in some instances you will find SMSA charts for regions within California. Charts illustrate level of minority employment and upward mobility trends.)

2. S. 2515 "The Equal Employment Opportunities Enforcement Act of 1971" relating to nondiscrimination in Federal Government employment.

3. The committee report related to S. 2515 (section relating to nondiscrimination in Federal Government employment). Senate Committee on Labor and Public Welfare.

1.—CIVIL SERVICE COMMISSION—TOTAL POPULATION CHART

Area	Total population [1]	Spanish [2] surnamed (percent)	Blacks [1] (percent)	American [2] Indian (percent)	Area	Total population [1]	Spanish [2] surnamed (percent)	Blacks [1] (percent)	American [2] Indian (percent)
Statewide, California	19,953,134	15.6	7.0	0.46	Fresno	413,053	25.0	4.9	.52
Los Angeles/Long Beach	7,032,075	18.0	10.8	.35	San Diego	1,064,714	13.0	4.6	.43
San Francisco	3,109,519	14.0	10.6	.41	San Bernadino	1,143,146	16.0	4.4	.51
Oakland (Alameda)		31.0		.53	Ontario/Riverside		(3)		.6
Sacramento	800,592	9.0	4.7	.42	San Jose (Santa Clara)	1,064,714	18.0	1.6	.38

[1] SMSA.
[2] County.
[3] Not available.
Note: All statistics are from official U.S. Census Bureau 1970.

2.—CIVIL SERVICE COMMISSION—TOTAL FEDERAL EMPLOYMENT CHART

Area (SMSA)	Total employment	Spanish surnamed (percent)	Blacks (percent)	American Indian (percent)	(Other) White (percent)	Area (SMSA)	Total employment	Spanish surnamed (percent)	Blacks (percent)	American Indian (percent)	(Other) White (percent)
Statewide California	293,770	5.6	14.9	0.5	75.0	Fresno	2,703	10.7	4.6	0.6	81.8
Los Angeles/Long Beach	66,475	6.2	25.0	.3	65.9	San Diego	29,272	6.2	8.0	.4	82.5
San Francisco	73,408	3.8	22.8	.4	65.1	San Bernardino	13,121	11.8	6.2	1.3	80.1
Oakland (Alameda)						Ontario/Riverside					
Sacramento	27,390	4.6	7.5	.5	84.1	San Jose (Santa Clara)	8,442	6.9	6.6	.4	81.4

3.—CIVIL SERVICE COMMISSION—AGENCY EMPLOYMENT CHART

Area (SMSA)	Total employment	Spanish surnamed (percent)	Blacks (percent)	American Indian (percent)	(Other) White (percent)
Statewide California	504	5.4	11.7	0	80.0
Los Angeles/Long Beach	116	8.6	22.4	0	66.4
San Francisco-Oakland (Alameda)	272	4.0	10.3	0	82.4
Sacramento	36	2.8	5.6	0	88.9
Fresno	1	0	0	0	100.0
San Diego	36	2.8	8.3	0	83.3
San Bernadino-Ontario/Riverside	14	28.6	0	0	71.4
San Jose (Santa Clara)	10	0	0	0	80.0

Note: Charts No. 2 and 3 contain statistics taken from U.S. Civil Service Commission minority group employment in the Federal Government, November 1970.

THE STATE OF CALIFORNIA, U.S. CIVIL SERVICE COMMISSION, UPWARD MOBILITY AND TRENDS IN MINORITY EMPLOYMENT

Total general schedule (pay system)[1]	Percent of total agency positions held: Spanish surnamed	Blacks	American Indian	White (other)
GS 1 through 4	8.2	16.9	0	71.0
GS 5 through 8	8.0	18.4	0	69.0
GS 9 through 11	1.6	4.8	0	88.8
GS 12 through 13	1.5	3.0	0	95.5
GS 14 through 15	0	0	0	100.0
GS 16 through 18	0	0	0	100.0

[1] Statistics taken from the 1970 minority group study for your agency published by the U.S. Civil Service Commission—November 1970.

Total wage system (pay system)[1]	Percent of total agency positions held: Spanish surnamed	Blacks	American Indian	White (other)
Up to $5,499				
$5,500 through $6,999				
$7,000 through $7,999				
$8,000 through $8,999				
$9,000 through $9,999				
$10,000 through $13,999				
$14,000 through $17,999				
$18,000 and above				

[1] Statistics taken from the 1970 minority group study for your agency published by the U.S. Civil Service Commission—November 1970.

TABLE 2-25.—WORLD/NATIONWIDE—1970 MINORITY GROUP STUDY, CIVIL SERVICE COMMISSION

FULL-TIME EMPLOYMENT AS OF NOV. 30, 1970

Pay system	Total full-time employees, number	Negro: Number	Negro: Percent	Spanish surnamed: Number	Spanish surnamed: Percent	American Indian: Number	American Indian: Percent	Oriental: Number	Oriental: Percent	All other employees: Number	All other employees: Percent
Total all pay systems	5,268	1,236	23.5	119	2.3	8	0.2	38	0.7	3,867	73.4
Total general schedule or similar	5,216	1,200	23.0	118	2.3	8	.2	38	.7	3,852	73.8
GS-1 through GS-4	1,860	722	38.8	58	3.1	5	.3	16	.9	1,059	56.9
GS-5 through GS-8	1,081	325	30.1	26	2.4			9	.8	721	66.7
GS-9 through GS-11	1,124	104	9.3	15	1.3	1	.1	11	1.0	993	88.3
GS-12 through GS-13	760	36	4.7	14	1.8	2	.3	1	.1	707	93.0
GS-14 through GS-15	338	12	3.6	5	1.5			1	.3	320	94.7
GS-16 through GS-18	53	1	1.9							52	98.1
Total wage systems	48	35	72.9	1	2.1					12	25.0
Up through $5,499	4	4	100.0								
$5,500 through $6,999	13	9	69.2	1	7.7					3	23.1
$7,000 through $7,999	13	8	61.5							5	38.5
$8,000 through $8,999	9	8	88.9							1	11.1
$9,000 through $9,999	5	3	60.0							2	40.0
$10,000 through $13,999	4	3	75.0							1	25.0
$14,000 through $17,999											
$18,000 and over											
Total other pay systems	4	1	25.0							3	75.0
Up through $6,499											
$6,500 through $9,999											
$10,000 through $13,999											
$14,000 through $17,999											
$18,000 through $25,999											
$26,000 and over	4	1	25.0							3	75.0

TABLE 2-25A.—1969 MINORITY GROUP STUDY, CIVIL SERVICE COMMISSION

FULL-TIME EMPLOYMENT AS OF NOV. 30, 1969

Pay system	Total full-time employees, number	Negro: Number	Negro: Percent	Spanish surnamed: Number	Spanish surnamed: Percent	American Indian: Number	American Indian: Percent	Oriental: Number	Oriental: Percent	All other employees: Number	All other employees: Percent
Total all pay systems	4,886	1,123	23.0	118	2.4	6	0.1	29	0.6	3,610	73.9
Total general schedule or similar	4,839	1,092	22.6	118	2.4	6	.1	29	.6	3,594	74.3
GS-1 through GS-4	1,666	686	41.2	64	3.8	3	.2	12	.7	901	54.1
GS-5 through GS-8	1,021	284	27.8	22	2.2	1	.1	7	.7	707	69.2
GS-9 through GS-11	1,126	78	6.9	18	1.6	1	.1	8	.7	1,021	90.7
GS-12 through GS-13	686	33	4.8	9	1.3	1	.1	1	.1	642	93.6
GS-14 through GS-15	293	11	3.8	5	1.7			1	.3	276	94.2
GS-16 through GS-18	47									47	100.0
Total wage systems	43	30	69.8							13	30.2
Up through $5,499	7	6	85.7							1	14.3
$5,500 through $6,999	15	11	73.3							4	26.7
$7,000 through $7,999	16	11	68.8							5	31.3
$8,000 through $8,999	2	1	50.0							1	50.0
$9,000 through $9,999	2	1	50.0							1	50.0
$10,000 through $13,999	1									1	100.0

Pay system	Total full-time employees, number	Negro		Spanish surnamed		American Indian		Oriental		All other employees	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
$14,000 through $17,999											
$18,000 and over											
Total other pay systems	4	1	25.0							3	75.0
Up through $6,499											
$6,500 through $9,999											
$10,000 through $13,999											
$14,000 through $17,999											
$18,000 through $25,999											
$26,000 and over	4	1	25.0							3	75.0

TABLE B—ALL AGENCIES

FULL-TIME WHITE COLLAR EMPLOYMENT BY GENERAL SCHEDULE AND EQUIVALENT GRADES—WORLDWIDE

Grade [1]	Employment, Oct. 31, 1969			Employment, Oct. 31, 1966			Percent change	
	Total	Women		Total	Women		Total	Women
		Number	Percent		Number	Percent		
1	5,533	3,042	69.4	5,041	3,505	69.5	9.0	9.6
2	25,512	19,900	76.4	59,811	44,900	80.5	54.3	56.6
3	121,312	95,932	79.1	140,472	111,874	75.4	18.3	14.2
4	100,134	142,876	75.9	214,936	134,810	62.7	12.5	6.0
5	643,019	194,000	30.2	534,561	149,420	20.0	20.3	29.0
6	133,262	61,457	46.1	106,099	40,472	45.7	25.6	26.8
7	150,895	53,579	35.5	132,137	49,109	37.2	14.2	9.0
8	47,062	11,402	29.8	31,252	7,836	25.1	53.1	45.9
9	170,769	42,056	24.6	147,643	29,151	19.7	15.7	44.9
10	25,570	3,560	13.9	21,102	2,649	12.0	21.2	34.7
11	155,386	10,332	11.8	136,868	19,409	9.9	19.5	35.9
12	191,724	9,136	6.9	109,216	6,814	6.2	20.0	34.1
13	98,667	4,290	4.9	78,442	3,155	4.0	25.0	36.0
14	49,127	1,009	3.0	39,741	1,396	3.5	29.6	35.9
15	26,410	717	2.7	20,412	494	2.4	29.4	45.1
16	6,344	115	1.8	6,060	111	1.0	4.7	9.6
17	2,498	37	1.5	2,391	94	1.4	4.5	8.9
18	700	4	.6	622	5	.8	12.5	20.0
Above 18	656	17	2.6	583	11	1.9	12.5	54.5
Ungraded	6,402	2,553	39.9	45,673	9,939	21.0	6.0	74.9
Total [2]	1,909,798	665,294	33.4	1,037,062	617,220	33.6	0.3	7.0

[1] The grades or levels of the various pay systems have been considered equivalent to specific general schedule grades solely on the basis of comparison of salary rates, specifically, in most instances, by comparing the 4th step GS rates with comparable rates in other pay systems.

[2] Excludes employees of Central Intelligence Agency, National Security Agency, Board of Governors of Federal Reserve System and foreign nationals overseas.

FULL-TIME WHITE COLLAR EMPLOYMENT BY GENERAL SCHEDULE AND EQUIVALENT GRADES, WORLDWIDE—WOMEN

TABLE C.—CIVIL SERVICE COMMISSION

Grade [1]	Employment, Oct. 31, 1969			Employment, Oct. 31, 1966			Percent change	
	Total	Women		Total	Women		Total	Women
		Number	Percent		Number	Percent		
1	26	23	88.5	23	21	91.3	13.0	9.5
2	236	205	86.9	471	425	9.02	−49.9	−51.8
3	711	634	89.2	728	630	86.5	−2.3	.6
4	698	609	87.2	491	433	88.2	42.2	40.6
5	577	486	84.2	484	375	77.5	19.2	29.6
6	140	124	88.6	76	63	82.9	84.2	96.8
7	280	145	51.8	320	136	42.5	−12.5	6.6
8	18	15	83.3	8	5	62.5	125.0	200.0
9	350	162	46.3	348	133	38.2	.6	21.8
10	25	16	64.0	18	7	38.9	38.9	128.6
11	773	128	16.6	744	57	7.7	3.9	124.6
12	341	71	20.8	280	48	17.1	21.8	47.9
13	349	44	12.6	267	32	12.0	30.7	37.5
14	171	10	5.8	135	7	5.2	26.7	42.9
15	124	4	3.2	87	4	4.6	42.5	0
16	27	2	7.4	28	1	3.6	−3.6	100.0
17	14	1	7.1	6			133.3	*
18	6			3			100.0	0
Above 18	4			4			0	0
Ungraded								
Total [2]	4,870	2,679	55.0	4,521	2,377	52.6	7.7	12.7

[1] The grades or levels of the various pay systems have been considered equivalent to specific general schedule grades solely on the basis of comparison of salary rates, specifically, in most instances, by comparing the 6th step GS rates with comparable rates in other pay systems.

[2] Excludes foreign nationals overseas.

CIVIL SERVICE COMMISSION

1970 MINORITY GROUP STUDY, AGENCY WITHIN STATE, FULL-TIME EMPLOYMENT AS OF NOV. 30, 1970 (CALIFORNIA)

Pay system	Total full-time employees	Negro		Spanish surnamed		American Indian		Oriental		All other employees	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Total, all pay systems	504	59	11.7	27	5.4			18	3.6	400	79.4
Total, general schedule or similar	504	59	11.7	27	5.4			18	3.6	400	79.4
GS–1 through 4	207	35	16.9	17	8.2			8	3.9	147	71.0
GS–5 through 8	87	16	18.4	7	8.0			4	4.6	60	69.0
GS–9 through 11	125	6	4.8	2	1.6			6	4.8	111	88.8
GS–12 through 13	66	2	3.0	1	1.5					63	95.5
GS–14 through 15	18									18	100.0
GS–16 through 18	1									1	100.0
Total, wage systems											
Up through $5,499											
$5,500 through $6,999											
$7,000 through $7,999											
$8,000 through $8,999											
$9,000 through $9,999											
$10,000 through $13,999											
$14,000 through $17,999											
$18,000 and over											
Total, other pay systems											

CIVIL SERVICE COMMISSION—Continued

1970 MINORITY GROUP STUDY, AGENCY WITHIN STATE, FULL-TIME EMPLOYMENT AS OF NOV. 30, 1970 (CALIFORNIA)—Continued

Pay system	Total full-time employees	Negro		Spanish surnamed		American Indian		Oriental		All other employees	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Up through $6,499											
$6,500 through $9,999											
$10,000 through $13,999											
$14,000 through $17,999											
$18,000 through $25,999											
$26,000 and over											
AGENCY WITHIN STANDARD METROPOLITAN STATISTICAL AREA (SAN FRANCISCO-OAKLAND, CALIF.)											
Total, all pay systems	272	28	10.3	11	4.0			9	3.3	224	82.4
Total, general schedule or similar	272	28	10.3	11	4.0			9	3.3	224	82.4
GS–1 through 4	121	17	14.0	7	5.8			5	4.1	92	76.0
GS–5 through 8	49	8	16.3	3	6.1			2	4.1	36	73.5
GS–9 through 11	50	2	4.0	1	2.0			2	4.0	45	90.0
GS–12 through 13	35	1	2.9							34	97.1
GS–14 through 15	16									16	100.0
GS–16 through 18	1									1	100.0
Total, wage systems											
Up through $5,499											
$5,500 through $6,999											
$7,000 through $7,999											
$8,000 through $8,999											
$9,000 through $9,999											
$10,000 through $13,999											
$14,000 through $17,999											
$18,000 and over											
Total, other pay systems											
Up through $6,499											
$6,500 through $9,999											
$10,000 through $13,999											
$14,000 through $17,999											
$18,000 through $25,999											
$26,000 and over											
AGENCY WITHIN STANDARD METROPOLITAN STATISTICAL AREA (LOS ANGELES-LONG BEACH, CALIF.)											
Total, all pay systems	116	26	22.4	10	8.6			3	2.6	77	66.4
Total, general sehedule or similar	116	26	22.4	10	8.6			3	2.6	77	66.4
GS–1 through 4	46	15	32.6	6	13.0			1	2.2	24	52.2
GS–5 through 8	22	7	31.8	3	13.6			1	4.5	11	50.0
GS–9 through 11	33	3	9.1					1	3.0	29	87.9
GS–12 through 13	13	1	7.7	1	7.7					11	84.6
GS–14 through 15	2									2	100.0
GS–16 through 18											
Total, wage systems											
Up through $5,499											
$5,500 through $6,999											
$7,000 through $7,999											
$8,000 through $8,999											
$9,000 through $9,999											
$10,000 through $13,999											
$14,000 through $17,999											
$18,000 and over											
Total, other pay systems											
Up through $6,499											
$6,500 through $9 999											
$10,000 through $13,999											
$14,000 through $17,999											
$18,000 through $25,999											
$26,000 and over											

S. 2515

A bill to further promote equal employment opportunities for American workers

* * * * *

SEC. 11. Title VII of the Civil Rights Act of 1964 (78 Stat. 253; 42 U.S.C. 2000e et seq.) is amended by adding at the end thereof the following new section:

"NONDISCRIMINATION IN FEDERAL GOVERNMENT EMPLOYMENT

"SEC. 717. (a) All personnel actions affecting employees or applicants for employment (except with regard to aliens employed outside the limits of the United States) in military departments as defined in section 102 of title 5, United States Code, in executive agencies (other than the General Accounting Office) as defined in section 105 of title 5, United States Code (including employees and applicants for employment who are paid from nonappropriated funds), in the United States Postal Service and the Postal Rate Commission, in those units of the Government of the District of Columbia having positions in the competitive service, and in the legislative and judicial branches of the Federal Government having positions in the competitive service, shall be made free from any discrimination based on race, color, religion, sex, or national origin.

"(b) The Civil Service Commission shall have authority to enforce the provisions of subsection (a) through appropriate remedies, including reinstatement or hiring of employees with or without back pay, as will effectuate the policies of this section, and shall issue such rules, regulations, orders and instructions as it deems necessary and appropriate to carry out its responsibilities under this section. The Civil Service Commission shall—

(1) be responsible for the annual review and approval of a national and regional equal employment opportunity plan which each department and agency and each appropriate unit referred to in section 717(a) shall submit in order to maintain an affirmative program of equal employment opportunity for all such employees and applicants for employment;

(2) be responsible for the review and evaluation of the operation of all agency equal employment opportunity programs, periodically obtaining and publishing (on at least a semiannual basis) progress reports from each such department, agency, or unit; and

(3) consult with and solicit the recommendations of interested individuals,

groups, and organizations relating to equal employment opportunity.

The head of each such department, agency, or unit shall comply with such rules, regulations, orders, and instructions which shall include a provision that an employee or applicant for employment shall be notified of any final action taken on any complaint of discrimination filed by him thereunder. The plan submitted by each department, agency, and unit shall include, but not be limited to—

(1) provision for the establishment of training and education programs designed to provide a maximum opportunity for employees to advance so as to perform at their highest potential; and

"(2) a description of the qualifications in terms of training and experience relating to equal employment opportunity for the principal and operating officials of each such department, agency, or unit responsible for carrying out the equal employment opportunity program and of the allocation of personnel and resources proposed by such department, agency, or unit to carry out its equal employment opportunity program.

"(c) Within thirty days of receipt of notice of final action taken by a department, agency, or unit referred to in subsection 717 (a), or by the Civil Service Commission upon an appeal from a decision or order of such department, agency, or unit on a complaint of discrimination based on race, color, religion, sex or national origin, brought pursuant to subsection (a) of this section, Executive Order 11478 or any succeeding Executive orders, or after one hundred and eighty days from the filing of the initial charge with the department, agency, or unit or with the Civil Service Commission on appeal from a decision or order of such department, agency, or unit until such time as final action may be taken by a department, agency, or unit, an employee or applicant for employment, if aggrieved by the final disposition of his complaint, or by the failure to take final action on his complaint, may file a civil action as provided in section 706(q), in which civil action the head of the department, agency, or unit, as appropriate, shall be the defendant.

"(d) The provisions of section 706(q) through (w), as applicable, shall govern civil actions brought hereunder.

"(e) Nothing contained in this Act shall relieve any Government agency or official of its or his primary responsibility to assure nondiscrimination in employment as required by the Constitution and statutes or of its or his responsibilities under Executive Order 11478 relating to equal employment opportunity in the Federal Government.

SEC. 12. Section 716 of the Civil Rights Act of 1964 (42 U.S.C. 2000(e)-15, 78 Stat. 266) is amended by adding at the end thereof the following new subsection:

"(d) In the performance of their responsibilities under this Act, the Attorney General, the Chairman of the Civil Service Commission and the Chairman of the Equal Employment Opportunity Commission shall consult regarding their rules, regulations, and policies."

SEC. 13. The amendments made by this Act to section 706 of the Civil Rights Act of 1964 shall not be applicable to charges filed with the Commission prior to the enactment of this Act.

S. REPT. NO. 92-415—EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971

* * * * *

4. *Federal employment.*—The bill adds to title VII a new section 717 (section 11 of the bill) making clear the obligation of the Federal Government to make all personnel actions free from discrimination based on race, color, sex, religion or national origin. The Civil Service Commission, which presently has the responsibility under Executive Order 11478, is given the authority under this title to enforce equal employment opportunity in the Federal government.

The Federal government, with 2.6 million employees, is the single largest employer in the Nation. It also comprises the central policymaking and administrative network for the Nation. Consequently, its policies, actions, and programs strongly influence the activities of all other enterprises, organizations and groups. In no area is government action more important than in the area of civil rights.

The prohibition against discrimination by the Federal government, based upon the due process clause of the Fifth Amendment, was judicially recognized long before the enactment of the Civil Rights Act of 1964.[8] Congress itself has specifically provided for nondiscrimination in the Federal government by stating that it is "the policy of the United States to insure equal employment opportunities for Federal employees without discrimination because of race, color, religion, sex, or national origin . . ." (5 U.S.C. § 7151). The primary responsibility for implementing this stated National objective has been granted to the Civil Service Commission pursuant to Executive Order 11246 (1964), and more recently by Executive Order 11478 (1969). In his memorandum accompanying Executive Order 11478, President Nixon stated that "discrimination of any kind based on factors not relevant to job performance must be eradicated completely from Federal employment." This was an important step forward in the field of equal employment opportunity for Federal employees.

Progress has been made in this field, however, much remains to be done. Statistical evidence shows that minorities and women continue to be denied access to a large number of government jobs, particularly in the higher grade levels. The disparity can be clearly seen in figures presented in a recent report released by the Civil Service Commission, *Minority Group Employment in the Federal Government* (1970). On the basis of the figures presented therein, the following listing shows the percentage of minority group employees under the General Schedule by grade level:

	Negro	Spanish surnamed	American Indian	Oriental
GS-1 through GS-4	21.8	3.0	1.8	0.6
GS-5 through GS-8	13.5	2.2	.7	.8
GS-9 through GS-11	5.1	1.5	.5	1.0
GS-12 through GS-13	2.7	.8	.2	.9
GS-14 through GS-15	1.7	.7	.2	.8
GS-16 through GS-18	1.4	.3	.1	.2

Minorities represent 19.4% of the total employment in the Federal government (15.0% are Negroes, 2.9% are Spanish-surnamed, 0.7% are American Indians, and 0.8% are Oriental). Their concentration in the lower grade levels indicates that their ability to advance to the higher levels has been restricted.

In many areas, the pattern at regional levels is worse than the national pattern. For example, the committee notes with special concern the particularly low percentage of Federal jobs held by Spanish-surnamed persons in areas of high residential concentration of such persons, particularly in California and the Southwestern States, and expects the Commission to undertake a special study of this problem to develop programs to provide greater entry level and advancement employment opportunities for Spanish-surnamed persons.

The position of women in the Federal government has not fared any better. In testimony before the Senate Labor Subcommittee this year, Mrs. Daisy B. Fields, past president of Federally Employed Women (FEW), testified as to the distribution, by percent, of all women employed by the Federal government (approximately 665,000 or about 34%) as represented by the following breakdown:

	Percent
GS-1 through GS-6	76.1
GS-7 through GS-12	21.7
GS-13 and above	1.1

The inordinate concentration of women in the lower grade levels, and their conspicuous absence from the higher grades is again evident.

One feature of the present equal employment opportunity program which deserves special scrutiny by the Civil Service Commission is the complaint process. The procedure under the present system, intended to provide for the informal disposition of complaints, may have denied employees adequate opportunity for impartial investigation and resolution of complaints.

Under present procedures, in most cases, each agency is still responsible for investigating and judging itself. Although provision is made for the appointment of an outside examiner, the examiner does not have the authority to conduct an independent investigation, and his conclusions and findings are in the nature of recommendations to the agency head who makes the final agency determination on whether there is, in fact, discrimination in that particular case. The only appeal is to the Board of Appeals and Review in the Civil Service Commission.

The testimony before the Labor Subcommittee reflected a general lack of confidence in the effectiveness of the complaint procedure on the part of Federal employees. Complaints have indicated skepticism regarding the Commission's record in obtaining just resolutions of complaints and adequate remedies. This has, in turn, discouraged persons from filing complaints with the Commission for fear that doing so will only result in antagonizing their supervisors and impairing any future hope of advancement. The new authority given to the Civil Service Commission in the bill is intended to enable the Commission to reconsider its entire complaint structure and the relationships between the employees, agency and Commission in these cases.

Another task for the Civil Service Commission is to develop more expertise in recognizing and isolating the various forms of discrimination which exist in the system it administers. The Commission should be especially careful to ensure that its directives issued to Federal agencies address themselves to the various forms of systemic discrimination in the system. The Commission should not assume that employment discrimination in the Federal Government is solely a matter of malicious intent on the part of individuals. It apparently has not fully recognized that the general rules and procedures that it has promulgated may in themselves constitute systemic barriers to minorities and women. Civil Service selection and promotion techniques and requirements are replete with artificial requirements that place a premium on "paper" credentials. Similar requirements in the private sectors of business have often proven of questionable value in predicting job performance and have often resulted in perpetuating existing patterns of discrimination (see e.g. *Griggs* v. *Duke Power Co.*, supra n.1). The inevitable consequence of this kind of a technique in Federal employment, as it has been in the private sector, is that classes of persons who are socio-economically or educationally disadvantaged suffer a very heavy burden in trying to meet such artificial qualifications.

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[8] See *Bolling* v. *Sharpe*, 347 U.S. 497 (1954) and cases cited therein.

It is in these and other areas where discrimination is institutional, rather than merely a matter of bad faith, that corrective measures appear to be urgently required. For example, the Committee expects the Civil Service Commission to undertake a thorough re-examination of its entire testing and qualification program to ensure that the standards enunciated in the *Griggs* case are fully met.

The Civil Service Commission's primary responsibility over all personnel matters in the Government does create a built-in conflict of interest for examining the Government's equal employment opportunity program for structural defects which may result in a lack of true equal employment opportunity. Yet, the Committee was persuaded that the Civil Service Commission is sincere in its dedication to the principles of equal employment opportunity enunciated in Executive Order 11478 and that the Commission has the will and desire to overcome any such conflict of interest. In order to assist the Commission in accomplishing its goals and to make clear the Congressional expectation that the Commission will take those further steps which are necessary in order to satisfy the goals of Executive Order 11478, the Committee adopted in Section 707(b) of the bill specific requirements under which the Commission is to function in developing a comprehensive equal employment opportunity program.

Thus the provision in section 717(b) for applying "appropriate remedies" is intended to strengthen the enforcement powers of the Civil Service Commission by providing statutory authority and support for ordering whatever remedies or actions by Federal agencies are needed to ensure equal employment opportunity in Federal employment. Remedies may be applied as a result of individual allegations of discrimination, CSC investigation of equal employment opportunity programs in Federal agencies or their field installations, or from review of agency plans of action and progress reports. Remedies may be in terms of action required to correct a situation regarding a single employee or group of employees or broader management action to correct systemic discrimination and to improve equal employment opportunity program effectiveness to bring about needed progress. The Commission is to provide Federal agencies with necessary guidance and authority to effectuate necessary remedies in individual cases, including the award of back pay, reinstatement or hiring, and immediate promotion where appropriate.

The bill also directs the Commission to require each Federal department and agency (including appropriate units of the District of Columbia Government) to prepare an equal employment opportunity affirmative plan of action at least annually. The Commission is to review, modify, and approve each department or agency developed with full consideration of particular problems and employment opportunity needs of individual minority group populations within each geographic area. These legislative directions are, of course, not intended to limit the Commission in requiring the establishment of affirmative equal employment opportunity plans for any agency level, including local installations as needed; indeed, the Committee expects the Commission to require that agency plans include specific regional plans for particularly large Federal regional installations and other regional offices with deficient records of progress in equal employment opportunity. The Committee recognizes that this new emphasis on regional installation equal employment opportunities and action plans will require a greater commitment of both agency and Civil Service Commission personnel to planning and enforcement activities and expects the Civil Service Commission to ensure that such staffing additions will be made both at the national and regional office levels. Finally, to lend the greatest credibility to its equal employment opportunity efforts at a national and regional level, the Commission should review and revise its own equal employment action plan and implemenation, particularly at its regional offices and higher grade levels, to ensure that its own record in this field is exemplary and thus a model for all other Federal agencies.

The bill requires the Commission to obtain, on at least a semi-annual basis, minority group employment and such other data as are necessary for effective evaluation by the Commission and the public of each department's, agency's or unit's record of equal employment opportunity achievement and to publish at least semi-annually full statistical and other reports (comparable to the report now published annually) of equal employment opportunity progress. In evaluating agency plans for approval, the Commission is also directed to study and determine the appropriate allocation of personnel and resources committed to, and the qualifications to be established for top equal employment opportunity officials responsible for, carrying out program responsibilities, including necessary affirmative action as well as processing of individual discrimination cases, on both a central office and regional (SMSA) basis.

The Committee wishes to emphasize the significant reservoir of expertise developed by the EEOC with respect to dealing with problems of discrimination. According, the committee strongly urges the Civil Service Commission to take advantage of this knowledge and experience and to work closely with EEOC in the development and maintenance of its equal employment opportunity programs.

An important adjunct to the strengthened Civil Service Commission responsibilities is the statutory provision of a private right of action in the courts by Federal employees who are not satisfied with the agency or Commission decision.

The testimony of the Civil Service Commission not withstanding, the committee found that an aggrieved Federal employee does not have access to the courts. In many cases, the employee must overcome a U.S. Government defense of sovereign immunity or failure to exhaust administrative remedies with no certainty as to the steps required to exhaust such remedies. Moreover, the remedial authority of the Commission and the courts has also been in doubt. The provisions adopted by the committee will enable the Commission to grant full relief to aggrieved employees, or applicants, including back pay and immediate advancement as appropriate. Aggrieved employees or applicants will also have the full rights available in the courts as are granted to individuals in the private sector under title VII.

The bill (section 717(c)) enables the aggrieved Federal employee (or applicant for employment) to file an action in the appropriate U.S. district court after either a final order by his agency or a final order of the Civil Service Commission on an appeal from an agency decision or order in any personnel action in which the issue of discrimination on the basis of race, color, religion, sex or national origin has been raised by the aggrieved person. It is intended that the employee have the option to go to the appropriate district court or the District Court for the District of Columbia after either the final decision within his agency on his appeal from the personnel action complained of or after an appropriate appeal to the Civil Service Commission or after the elapse of 180 days from the filing of the initial complaint or appeal with the Civil Service Commission.

CHANGES IN ENFORCEMENT PROVISIONS

Section 4 of the bill revises section 706 of the act to enable the EEOC to process a charge of employment discrimination through the investigation, conciliation, administrative hearing, and judicial review stages.

The present act, which only allows the Commission to pursue charges through the informal methods of persuasion and conciliation, has, as already shown, proven to be seriously defective in providing an effective Federal remedy for violations of title VII. Since the compliance provisions of the present law, as regards the findings of the EEOC, are purely voluntary, and respondents have not generally been very agreeable to accepting EEOC decisions where discriminatory practices are found, the burden of relief has been placed upon the aggrieved individual's private right of action in the Federal courts.

This method has generally worked to the disadvantage of the aggrieved individuals. Since most title VII complainants are by the very nature of their complaint disadvantaged, the burden of going to court, initiating legal proceedings by retention of private counsel, and the attendant time delays and legal costs involved, have effectively precluded a very large percentage of valid title VII claims from ever being decided. This disparity between complainants and respondents in title VII litigation has been recognized by the courts which have characterized such litigation as a "modern day David and Goliath confrontation."[9] In such situations, the public has an overriding interest in protecting the individual from the denial of those rights which Congress has specifically provided.

To accomplish the stated purpose of title VII, the bill, while retaining the private right of action, provides, as well, for the elimination of unfair employment practices through a system of administrative hearings, Commission decisions and orders, and ultimate court review in appropriate cases—the method of enforcement which has long been utilized by other regulatory agencies.

The need to provide some form of direct enforcement power to the EEOC has been voiced since the inception of the Commission. There is disagreement whether this enforcement power should be through a Commission lawsuit in a U.S. district court, or by an administrative proceeding followed by a cease-and-desist order with review in the appropriate U.S. court of appeals. . . .

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, but I would like to retain my right to the floor.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I have had the opportunity to meet with the distinguished Senator from North Carolina (Mr. ERVIN) and the distinguished Senator from Alabama (Mr. ALLEN) to lay before them a proposal which after some consultation they both agree to.

I have also discussed this matter with the manager of the bill, the distinguished Senator from New Jersey (Mr. WILLIAMS) and the ranking Republican member of the committee, the distinguished Sena-

[9] See *Sanchez v. Standard Brands, Inc.*, 431 F. 2d 455 (C.A. 1970); *Jenkins v. United Gas Corp.*, 400 F. 2d 28 (C.A. 5, 1968); *Pettway v. American Cast Iron Pipe Co.*, 411 F. 2d 998 (C.A. 5, 1969).

tor from New York (Mr. JAVITS) and others.

I hope this meets with the approval of the leadership on the Republican side. I am sure it will but I would appreciate it if it would be possible for them to give their approval to the unanimous consent request I am about to make.

Mr. President, I ask unanimous consent that immediately after the final passage of S. 2515, for which a conference will not be asked in the Senate until the House so requests, the Senate proceed without debate to the consideration of H.R. 1746, that the text of S. 2515, as passed by the Senate, be substituted for the text of H.R. 1746; that H.R. 1746, as amended, proceed immediately to third reading and then immediately to final passage; and that a motion to reconsider the vote on final passage of both be waived. I also ask unanimous consent that rule XII be waived.

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

Mr. MANSFIELD. I yield.

Mr. JAVITS. I wonder about the motion to reconsider being waived. Why is that included? We are perfectly agreeable to sending both bills to the other body but why waive a motion to reconsider?

Mr. MANSFIELD. If the Senator will allow me, knowing the rules of procedure of this body as he does, if such a motion were made it could be held up, I understand, for 2 days. This way it faces up to the issue immediately.

Mr. JAVITS. Both bills would go over at once?

Mr. MANSFIELD. Yes.

Mr. JAVITS. Do we understand, however, and in good faith we should know, there is no intent to make any motion to reconsider in the 2 days?

Mr. MANSFIELD. Not that I know of.

Mr. JAVITS. This is a situation where everybody is agreeing?

Mr. MANSFIELD. This is in good faith. There are no cards under the table, no angles, no openings.

Mr. ALLOTT. Mr. President, I have no objection to the request except the one part about a motion to reconsider. I have nothing in my mind and I do not know that anybody else would, but if a motion to reconsider is made immediately, a motion to table can be made at any time, as we have done hundreds of times. I must say I am very, very reluctant to waive this right by unanimous consent. If it were left to the Senator from Colorado alone I would ask the Senator if he would consider deleting that. Heaven knows I have no desire to delay the progress of this legislation.

Mr. MANSFIELD. I appreciate what the distinguished Senator from Colorado, the acting Republican leader, just said. If I may make a personal request, I hope the Senator will allow me to proceed in this manner, with my assurance to him that this is no subterfuge, there is nothing under the table, and it is one way of bringing this proposal, which has encountered some difficulty, to a head, with the idea that this would not set a precedent.

Mr. ALLOTT. I am sure the Senator does not have anything under the table, or anything like that, but I stated my own view. If the Senator thinks it is necessary, I would be perfectly willing not to object, but I must say this should not be considered a precedent.

Mr. MANSFIELD. I agree. This is something that is not to be considered a precedent.

Mr. ALLOTT. I thank the Senator.

Mr. ALLEN. Mr. President, reserving the right to object and I do not object, as I understand the agreement, House bill, H.R. 1746, would not be called up until after the passage of the Senate bill.

Mr. MANSFIELD. The Senator is correct.

Mr. ALLEN. Then, the Senate bill would go over to the House for further consideration. Then the House bill, amended to conform to the Senate bill as passed, would then be passed and also sent to the House so that the House would have the option of acting again on the House bill or to take up the Senate bill from the start, if it saw fit. It would give the House an option.

Mr. MANSFIELD. The Senator is correct, although the substance of both bills would be the same.

Mr. ALLEN. Yes, but the House could proceed to act again by using the Senate bill.

Mr. MANSFIELD. The Senator is correct.

Mr. ALLEN. I have no objection.

Mr. ERVIN. As I understand the request, there would be two votes, one on the passage of the Senate bill and one on the passage of the House bill as amended, to conform to the Senate bill.

Mr. MANSFIELD. The Senator is correct.

Mr. ERVIN. I thank the Senator.

Mr. MANSFIELD. I ask for the yeas and nays on both.

The PRESIDING OFFICER. Without objection, rule XII will be waived.

Mr. MANSFIELD. I ask that it be in order at this time to ask for the yeas and nays, not only on the pending bill, which I understand is ready for third reading, but on H.R. 1746.

The PRESIDING OFFICER. First, is there objection to the unanimous-consent request?

Mr. MANSFIELD. What unanimous-consent request does the Chair refer to?

The PRESIDING OFFICER. The one the Senator just made.

Mr. MANSFIELD. That we vote on both?

The PRESIDING OFFICER. No; that we proceed to the House bill afterwards.

Is there objection? The Chair hears no objection, and it is so ordered.

Mr. MANSFIELD. I ask for the yeas and nays on both bills.

The PRESIDING OFFICER. Is there a sufficient second to the request for the yeas and nays?

The yeas and nays were ordered.

Mr. ALLEN. Mr. President, I desire to speak for a moment on the committee substitute. I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. ALLEN. Mr. President, I plan to vote for the committee substitute. I shall not call for the yeas and nays on the adoption of the committee substitute, but I shall vote for it because it is a vast improvement over the bill as introduced, because it does have the Dominick amendment in it. It has the increase from eight to 15 as the required number of employees to put employers under the provisions of the EEOC. It eliminates religious schools and educational institutions from the religious aspect of discrimination. It is a vast improvement over the bill as introduced, and I shall support the committee substitute.

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

We have engaged in a pretty tough debate on this bill for a very long period of time. I had thought when the bill came out that we would have completed it long before this. I feel, however, that the debate itself and the amendments which have been adopted have substantially improved the bill. We now have all classifications of employees having the right to redress employment grievances in the Federal courts. We have not unfairly harassed the very small employers by going to the extreme of extending the coverage of the bill to employers of eight or more employees. The present bill coverage of employers with 15 or more employees is much more reasonable. We have taken care of the situation brought out by the Senator from North Carolina and the Senator from Alabama on elected officials and their personal staffs.

A number of other amendments have been adopted that, in my opinion, have so substantially improved the bill that I think we can work it out either by action of the House or in conference. As a result, I intend to support the bill on final passage.

In conclusion, I would like to thank colleagues who, despite strong pressures to the contrary, exercised great degrees of allegiance to principle to make this bill truly a representative Senate bill. Additionally, I wish to compliment my assistant, Mr. Daniel T. Moyle, Jr., for his excellent and persistent efforts on my behalf.

Mr. WILLIAMS. Mr. President, as I stated earlier, this is the 21st full day of debate. We have had more than 30 rollcalls. But the Senate, in invoking cloture, has determined that it is time to get on with the passage of this bill. In a very few minutes we will be voting on the final passage of that bill. I think it is clear to everyone here that the bill represents the overwhelming will of the majority of the U.S. Senate.

I believe that this bill, as amended in the Senate, will assure a greater measure of equality in employment opportunities to the Nation's women workers and to its minorities. I believe it represents a major step forward in the struggle to end job discrimination in our society.

I think it would be useful to review some of the steps that have been taken in the Senate in modifying this bill and the significant changes in the existing law made by this bill when it is finally passed.

First, as to the method of enforcement. This was a long and hard-fought issue. The simple question was the appropriate

and best method of enforcement powers for the Equal Employment Opportunity Commission. Many of us felt that the best method of enforcement was the time-honored administrative agency approach which would have enabled EEOC to conduct administrative hearings and issue judicially enforceable cease-and-desist orders. We debated this issue for 4 weeks. We had a number of votes on the subject. The final vote came last Tuesday, on an amendment offered by the Senator from Colorado (Mr. DOMINICK). That amendment provided an enforcement mechanism which would allow the Equal Employment Opportunity Commission to seek injunctive relief in the Federal district courts for charges of unlawful employment practices.

Mr. President, I vigorously opposed that method of enforcement because I felt that it would lead to unwarranted delays in the Federal courts and would not provide the kind of agency expertise and guidance needed in employment discrimination cases. However, Mr. President, the Senate made its judgment. I fully recognize, as I have stated on several occasions, that the enforcement mechanism that was so stanchly advocated by the distinguished Senator from Colorado was a workable mechanism. It was not a negative approach to this law. It was a positive effort. I commend him for his diligence. Although I strongly prefer the administrative mechanism, I think that the court enforcement mechanism can work. However, it can only work if Congress provides the commission and the courts with the resources that are going to be necessary to make that program work.

Second, as to coverage. The bill will extend the coverage to three classes of employees. It will assure to employees of State and local governments the protections of title VII of the Civil Rights Act. It does so, with one proviso, which exempts from coverage the elected officials and their most personal advisers. I believe that the coverage of governmental employees is a monumentally important step for the cause of equal employment opportunity. It was a hotly contested issue. I am gratified that the Senate, by an overwhelming vote of 59 to 16, took this historical opportunity to assure a protective mechanism for the more than 10 million workers employed in such capacities.

The bill also extends coverage to millions of teachers in our educational system by eliminating the present exemption for employees of those institutions. It goes without saying that the opportunity to become a teacher in our society is one that should be cherished and valued. Arbitrary and artificial restraints, which deny that opportunity, must be abolished. Inclusion of teachers, in this bill, is a major step toward obtaining that goal. Finally, coverage is extended to employers with 15 or more employees and unions with 15 or more members instead of 25 or more. This figure represented a compromise between those of us who advocated coverage of employers and unions with even fewer employees and members and those who were concerned with the impact of additional Federal regulations on smaller businessmen. I think it is clear that no one really disputes the need for equal employment opportunity at every level of our society. I do not believe that those who were advocating higher levels of coverage were suggesting that small businessmen or unions should be engaged in discrimination on the basis of race, color, religion, sex, or national origin. I think, however, that there was a concern about the ability of the commission to digest the new coverage that we are providing. I think, therefore, that the 15 level will be a useful and workable device and the extension of coverage in the future can be reconsidered at an appropriate time.

Another significant part of the bill and one that has not had very much debate because it was so clearly accepted at the committee level, concerns our Federal Government employees. The requirement of equal employment opportunity is extended by statute to these employees, and for the first time a clear remedy is provided enabling them to pursue their claims in the district courts following a Civil Service Commission or agency hearing.

Moreover, and very importantly, the Civil Service Commission is given additional responsibilities to see that job discrimination in the Federal service is brought to a halt. I cannot emphasize the concern that was expressed in our committee over the need to have the Federal Government as the model employer. Provision for a noncontroversial method is due to the extensive efforts of the Senator from Colorado (Mr. DOMINICK) and the Senator from California (Mr. CRANSTON), and the good faith and desire for improvement and change reflected on the part of the Civil Service Commission during our committee consideration of this matter.

Lastly, the bill makes a number of modifications in the administrative operation of EEOC. This includes the very important provisions for deferral of cases to State agencies, modification of the recordkeeping and investigative authority of the commission and other similar housekeeping changes.

Mr. President, I ask unanimous consent that a section-by-section explanation of the scope of the bill that I have prepared be printed in the RECORD at the end of my remarks.

I firmly believe that we have a good bill before us. I believe this legislation is long overdue. I hope that we can look forward to its enactment in the very near future.

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

SECTION-BY-SECTION ANALYSIS OF S. 2515, THE EQUAL EMPLOYMENT OPPORTUNITIES ACT OF 1972

The following analysis seeks to explain the major provisions of S. 2515, the Equal Employment Opportunities Act of 1972, as amended by the Senate during its debate on the bill. These explanations, which reflect the changes adopted by the Senate from the original bill as reported by the Committee, encompass the enforcement provisions of Title VII as now adopted by the Senate and the various procedural and jurisdictional changes which are also encompassed within provisions of S. 2515.

In any area where the new law does not address itself, or in any areas where a specific contrary intention is not indicated, it is assumed that the present case law as developed by the courts shall continue to determine the applicability of Title VII. It is also the intent of this legislation to remedy deficiencies in the current law.

SECTION 2

This section amends certain definitions contained in section 701 of the Civil Rights Act of 1964.

Section 701(a)—This subsection defines "person" as used in Title VII. Under the provisions of S. 2515, the term is now expanded to include State and local governments, governmental agencies, and political subdivisions.

Section 701(b)—This subsection defines the term "employer" as used in Title VII. This subsection would now include, within the meaning of the term "employer", all State and local governments, governmental agencies, and political subdivisions, and the District of Columbia departments or agencies (except those subject by statute to the procedures of the Federal competitive service as defined in 5 U.S.C. § 2102, who along with all other Federal employees would now be covered by section 717 of the Act).

This subsection would extend coverage of the term "employer", one year after enactment, to those employers with 15 or more employees. The standard for determining the number of employees of an employer, i.e. "employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year," would apply immediately upon enactment to all employers of 25 or more employees during the first year, as well as to the final coverage of 15 or more employees thereafter.

Section 701(c)—This subsection eliminates the exemption for agencies of the United States, States, or the political subdivisions of States from the definition of "employment agency" in order to conform with the expanded coverage of State and local governments in section 701 (a) and (b) above, State agencies, previously covered by reference to the United States Employment Service, continue to be covered as employment agencies.

Section 701(e)—This subsection is revised to include labor organizations with 15 or more members within the coverage of Title VII, one year after the enactment of the present bill.

Section 701(f)—This subsection is intended to exclude from the definition of "employee" as used in Title VII those persons elected to public office in any State or political subdivision of any State by the qualified voters of such State or political subdivision. An additional exemption from the definition of "employee" is also provided for persons chosen by such officers as personal assistants or as immediate advisors in respect to the exercise of the Constitutional or legal powers of the office held by such elected officer. This exemption is intended to be read very narrowly and is in no way intended to establish an overall narrowing of the expanded coverage of State and local governmental employees as set forth in section 701(a) and (b) above.

Section 701(j)—This subsection, which is new, defines "religion" to include all aspects of religious observance, practice and belief, so as to prohibit discrimination against employees whose "religion" requires observances, practices and beliefs which differ from the employer's or potential employer's norm. Discrimination on this basis would be unlawful unless an employer can demonstrate that he cannot reasonably accommodate beliefs without undue hardship on the conduct of his business.

SECTION 3

This section amends the exemptions allowed in section 702 of the Civil Rights Act of 1964.

Section 702—This section is amended to eliminate the exemption for employees of educational institutions. Under the provisions of this section, all private and public educational institutions, which are not religious educational institutions, would now be covered under the provisions of Title VII. With the elimination of the exemption, the employment practices of such institutions most of which have previously been covered by other relevant state and federal laws, would now be expected to conform to the standards of equal employment opportunity as established under Title VII, and employment practices such as hiring, promotion, transfer, and termination would be subject to strict equal employment standards.

The exemption in this section for religious corporations, associations, educational institutions, or societies to allow such entities to employ individuals of a particular religion to perform work connected with the particular corporation, association, educational institution or society, has been broadened to allow such religious preference regardless of the particular job which the individual is being considered.

SECTION 4(a)

This section of the bill contains the major provisions for the enforcement functions which are provided to the EEOC for the prevention of unlawful employment practices. S. 2515 revises the present section 706 of Title VII of the Civil Rights Act of 1964 to enable the EEOC to process a charge of employment discrimination through the investigation and conciliation stages of voluntary compliance. In addition, however, the provisions or S. 2515 provide that if such should prove unsuccessful, then the EEOC would be empowered to file an action against the respondent in the appropriate Federal District Court.

The accomplishment of the stated purpose of Title VII, the elimination of employment discrimination in all areas of employment in this Nation, has not been accomplished under the present system of voluntary compliance through EEOC procedures or, in the alternative, the private law suit. Under the provisions of section 4 of the bill, the overriding public interest in equal employment opportunity would be asserted through direct Federal enforcement. Accordingly, this section amends sections 706(a) through (g) of the Civil Rights Act of 1964.

Section 706(a)—This subsection would empower the Commission to prevent persons from engaging in unlawful employment practices under sections 703 and 704 of Title VII of the Civil Rights Act of 1964. As these noted sections remain largely unchanged, the unlawful employment practices which were enumerated in 1964 in the original Act, and as defined and expanded by the courts in litigation since that time, and by these amendments, remain in effect.

Section 706(b)—This subsection sets out the procedures to be followed when a charge of an unlawful employment practice is filed with the Commission. The present requirement that charges must be in writing and under oath or affirmation has been retained. In order to accord respondents fair notice that charges are pending against them, this subsection provides that the Commission must serve a notice of the charge on the respondent within ten days; further, the Commission would be expected to investigate the charge as quickly as possible and to make its determination on whether there is reasonable cause to believe that the charge is true. It is not intended that failure to give notice of the charge to the respondent within ten days should prejudice the rights of the aggrieved party.

If the Commission finds no reasonable cause, it must dismiss the charge; if it finds reasonable cause, it must attempt to conciliate the case. During the Commission's investigation of the charge, the allegations would not be made public by the Commission, and if it finds that there is not reasonable cause to believe that the charge is true, it shall dismiss the charge and notify the complainant and the respondent of its decision.

This subsection also makes a number of other changes in existing law:

1. Under present law, a charge may be filed only by a person aggrieved under oath or by a member of the Commission where that member has reasonable cause to believe a violation has occurred. This subsection would permit a charge to be filed under oath or affirmation by or on behalf of a person aggrieved, or by an officer or employee of the Commission upon the request of a person claiming to be aggrieved. The purpose of this provision would enable aggrieved persons to have charges processed under circumstances where they are unwilling to come forward publicly for fear of economic or physical reprisals. In this connection, it is intended that the device of a Commission charge may be used to maintain the confidential identity of the persons aggrieved and that no disclosure need be made of the identity of person aggrieved.

2. The Commission would be required to make its determination on reasonable cause as promptly as possible and, "so far as practicable," within 120 days from the filing of the charge or from the date upon which the Commission is authorized to act on the charge under section 706(c) or (d). The Commission, where appropriate, would be required in its determination of reasonable cause to accord substantial weight to final findings and orders made by State or local authorities under State and local laws.

3. This subsection and section 8(c) of the bill add appropriate provisions to carry out the intent of the present statute to provide full coverage for joint labor-management committees controlling apprenticeship or other training or retraining, including on-the-job training programs. While these joint labor-management committees are prohibited under section 703(d) of the present act from discriminating, they were not expressly included in the prohibition against discriminatory advertising or retaliation against persons participating in Commission proceedings (sec. 704(a) and (b)) or in the procedures for filing changes in section 706(a).

Section 706(c)—This subsection retains the present requirement that the Commission defer for a period of 60 days to State or local agencies which have a State or local law prohibiting the unlawful employment practice alleged and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto (this period for deferral is 120 days during the first year after the effective date of such law).

The present law is changed by deleting the phrase "no charge may be filed" with the Commission by an aggrieved person in such State or locality until the deferral period has expired. The present law is somewhat unclear respecting the nature of Commission action on charges filed with it prior to resort to the State or local agency. The new language clarifies the present law by permitting a charge to be filed but prohibiting the Commission from taking any action with respect thereto until the prescribed deferral period has elapsed (see a similar holding by the Supreme Court in *Love* v. *Pullman Co.* decided on January 17, 1972 (No. 70–5033), where the Court held that a complaint filed with the Commission, then orally deferred to the State agency for the required deferral period, and then reactivated automatically after the deferral period had expired was proper procedure under the provisions of § 706(b) and (d) of the present Act.

Section 706(d).—This subsection requires deferral to State or local anti-discrimination agencies, similar to provisions contained in subsection 703(c), in the case of charges filed by an officer or employee of the Commission.

Section 706(e).—This subsection sets forth the time limits controlling certain actions by the Commission under the provisions of the bill.

Under the present law, charges must be filed within 90 days after an alleged unlawful employment practice has occurred. In cases where the Commission defers to a State or local agency under the provisions of section 706(c) or (d), the charge must presently be filed within 30 days after the person aggrieved receives notice that the State or local agency has terminated its proceedings, or within 210 days after the alleged unlawful employment practice occurred, whichever is earlier.

The amendments to this subsection would now provide that charges be filed within 180 days of the alleged unlawful employment practice, a limitation period similar to that contained in the Labor Management Relations Act, as amended (29 U.S.C. § 160(b)). In establishing the new time period for the filing of charges, it is not intended that existing law, which has shown an inclination to interpret this type of time limitation to give the aggrieved person the maximum benefit of the law, should be in any way circumscribed. Existing case law which has determined that certain types of violations are continuing in nature, thereby measuring the running of the required time period from the last occurrence of the discrimination and not from the first occurrence is continued, and other interpretations of the courts maximizing the coverage of the law are not affected. It is intended by expanding the time period for filing charges in this subsection that aggrieved individuals, who frequently are untrained laymen who are not always aware of the discrimination which is practiced against them, should be given a greater opportunity to prepare their charges and file their complaints, and that existent but undiscovered acts of discrimination should not escape the effect of the law through a procedural oversight.

Similarly, the time period allowing a determination by a State or local anti-discrimination agency has been extended to 300 days after the alleged unlawful employment practice occurred or within 30 days after the State or local agency has terminated proceedings under the State or local law, whichever is earlier.

This subsection also requires that notice of the charge be served on the respondent within 10 days after its having been filed.

Section 706(f).—This subsection, which is new, sets forth the procedures to be followed, in those cases where the Commission is unable to achieve a satisfactory conciliation after a finding of reasonable cause, for securing compliance with the provisions of Title VII. The procedures set forth in this subsection are intended to place the primary responsibility for enforcing violations of Title VII in the Commission and to shift them from the private plaintiff where they have been under the existing provisions of title VII.

Section 706(f)(1)—Under this subparagraph, if the Commission is unable to secure a conciliation agreement pursuant to section 706(b) that is acceptable to the Commission within 30 days from the filing of the charge or within 30 days after expiration of any period of reference under subsection (c) or (d), it would promptly so notify the General Counsel who may bring a civil action against the respondent in the appropriate district court, if the respondent is not a government, governmental agency, or political subdivision.

In the case of a respondent that is a government, governmental agency, or political subdivision, if conciliation fails, the Commission will take no further action and will

refer the case to the Attorney General who may bring a civil action in the appropriate district court.

With respect to cases arising under this subsection, if the Commission: (a) has dismissed the charge, or (b) 150 days have elapsed from the filing of the charge or period of reference to State agencies under subsection 706 (c) or (d), whichever is later, without the General Counsel or the Attorney General, as the case may be, having issued a complaint under section 706(f), or without the Commission having entered into a conciliation agreement to which the person aggrieved is a party, the person aggrieved may bring an action in the appropriate district court within 90 days after being notified thereof. Such civil actions are to be governed by sections 706 (f) through (k) as applicable. In providing this provision, it is intended that the individual who has been aggrieved by a violation of Title VII should not be forced to abandon his claim merely because of a decision by the agency that there is insufficient grounds upon which to file a complaint in court or that the person aggrieved should have to endure lengthy delays if the agency does not act with due diligence and speed. Accordingly, the provisions described above would allow the person aggrieved to elect to pursue his or her own remedy in the courts where agency action does not prove satisfactory.

In providing this remedy, it is intended that recourse to this form of remedy will be the exception and not the rule, and that the vast majority of complaints will be handled through the offices of the EEOC. However, as the individual's rights to redress are paramount under the provisions of Title VII, it is necessary that all avenues of relief be left open for quick and effective relief.

In providing for the individual right to sue in the event that action by the Commission is unsatisfactory or unresponsive, it is not intended that duplication of proceedings should be allowed. Therefore, in any proceeding where the General Counsel or the Attorney General, as the case may be, is proceeding with due diligence within the time limits specified in this subsection, the person aggrieved would be precluded from instituting an individual action until such time as one of the specific conditions of this subsection are not met.

In any such complaint brought by the person named in the charge as claiming to be aggrieved or in the case of a charge filed by an officer or employee of the Commission, by any person whom the charge alleges was aggrieved by the alleged unlawful employment practice, the court may upon timely application of the complainant, appoint an attorney and authorize the commencement of the action without the payment of fees, costs, or security in such circumstances as it deems just. The Attorney General or the General Counsel, upon timely application and subject to the court's discretion, may intervene in such a private action if he certifies that the private action is of general public importance. In addition, the court is given discretion to stay proceedings for not more than 60 days pending the termination of State or local proceedings or efforts by the Commission to obtain voluntary compliance.

In establishing the enforcement provisions under this subsection and subsection 706(f) generally, it is not intended that any of the provisions contained therein are designed to affect the present use of class action lawsuits under Title VII in conjunction with Rule 23 of the Federal Rules of Civil Procedure. The courts have been particularly cognizant of the fact that claims under Title VII involve the vindication of a major public interest, and that any action under the Act involves considerations beyond those raised by the individual claimant. As a consequence, the leading cases in this area to date have recognized that Title VII claims are necessarily class action complaints and that, accordingly, it is not necessary that each individual entitled to relief under the claim be named in the original charge or in the claim for relief.

Section 706(f)(2)—This subsection provides a procedure by which the General Counsel or the Attorney General in a case involving a government, governmental agency, or political subdivision, could secure a three-judge court to hear and determine an action brought by him under this section, if such request is accompanied by a certificate that the case is of general public importance. The chief judge of the court is responsible for appointing the three-judge court. Cases are to be expedited in every way, and appeals from the three-judge court are to be appealed directly to the Supreme Court.

Section 706(f)(3) and 706(f)(4)—Under these paragraphs, if a three-judge court is not requested, the chief judge is required to designate a district judge to hear the case. If no judge is available, then the chief judge of the circuit assigns the judge. Cases are to be heard at the earliest practicable date and expedited in every way.

Section 706(f)(5)—This subsection authorizes the Commission or the Attorney General in a case involving a government, governmental agency or political subdivision based upon a preliminary investigation of a charge filed, to bring an action for appropriate temporary or preliminary relief, pending the final disposition of the charge. Such actions are to be assigned for hearing at the earliest possible date and expedited in everyway.

Section 706(g)(1)—This subsection, which is the same as the present section 706(f) of the Act, grants the district courts jurisdiction over actions brought under this title and provides the venue requirements.

It is also intended that one of the fundamental jurisdictional attributes exercised by the court under any actions brought before it under this Act includes the ability to grant such temporary or preliminary relief as it deems just and proper.

Section 706(g)(2)—This subsection is similar to the present section 706(g) of the Act. It authorizes the court, upon a finding that the respondent has engaged in or is engaging in an unlawful employment practice to enjoin the respondent from such unlawful conduct and order such affirmative relief including, but not limited to, reinstatement or hiring of employees, with or without back pay as will effectuate the policies of the Act. The court's award of back pay is limited to that which accrues from a date not more than two years prior to the filing of a charge with the Commission. Interim earnings or amounts earnable with reasonable diligence by the aggrieved person(s) would operate to reduce the back pay otherwise allowable.

The provisions of this subsection are intended to give the court wide discretion, as has been generally exercised by the courts under existing law, in fashioning the most complete relief possible. In dealing with the present section 706(g) the courts have stressed that the scope of relief under that section of the Act is intended to make the victims of unlawful discrimination whole, and that the attainment of this objective rests not only upon the elimination of the particular unlawful employment practice complained of but also requires that the consequences and effects of the unlawful employment practice be, so far as possible, restored to a position where they would have been were it not for the unlawful discrimination. This broad reading of the need for effective remedies under this subsection is intended to be preserved in this bill in order to effectively combat the presence of employment discrimination.

SECTION 4(b)

Section 706(k)—This subsection is similar to section 706(k) of the present Act allowing the award of attorney's fees. It adds a provision allowing a prevailing party, in an action brought by the General Counsel or the Attorney General, who is an employer with less than 25 employees or a labor union with less than 25 members to be indemnified by the United States Treasury upon certification of the Commission, in an amount not to exceed $5,000 for their defense, including all expenses and reasonable attorney's fees incurred subsequent to receiving notice of a charge filed against them. Any such prevailing party with 25 to 100 employees whose average income from such employment is less than $7,500, or in the case of a labor union with 25 to 100 members, would be indemnified for one-half of the cost of their defense in an amount not to exceed $2,500. Costs are to be submitted by application to the Commission evidenced by vouchers and are to be deemed reasonable so long as they are comparable to the total amount of the expenses and attorneys fees incurred by the Commission in its investigation and prosecution of the charge. Any district court with jurisdiction over the proceedings would have the authority to make the determination provided for by the subsection.

SECTION 5

This section amends section 707, concerning the Attorney General's "pattern or practice" action, to provide for a transfer of this function to the Commission two years after the enactment of the bill. The bill further provides for current "pattern or practice" jurisdiction for the commission from the date of enactment until the transfer is complete. The transfer is subject to change in accordance with a Presidential reorganization plan if not vetoed by Congress. The section would provide that currently pending proceedings would continue without abatement, that all court orders and decrees remain in effect, and that upon the transfer the Commission would be substituted as a party for the United States of America or the Attorney General as appropriate. The Commission would have authority to investigate and act on pattern or practice charges except that any action would follow the procedures of section 706.

SECTION 6

This section amends section 709 of the Civil Rights Act of 1964, entitled "Investigations, Inspections, Records, State Agencies."

Section 709(a)—This subsection, which gives the Commission the right to examine and copy documents in connection with its investigation of a charge, would remain unchanged.

Section 709(b)—This subsection would authorize the Commission to cooperate with State and local fair employment practice agencies in order to carry out the purposes of the title, and to enter into agreements with such agencies under which the Commission would refrain from processing certain types of charges or relieve persons from the recordkeeping requirements. This subsection would make two changes in the present statute. Under this subsection, the Commission could, within the limitations of funds appropriated for the purpose, also engaged in and contribute to the cost of research and other projects undertaken by these State and local agencies and pay these agencies in advance for services rendered to the Commission. The subsection also deletes the reference to private civil actions under section 706(e) of the present statute.

Section 709(c)—This subsection, like the present statute, would require employers, employment agencies, labor organizations, and joint labor-management apprenticeship committees subject to the title to make and keep certain records and to make reports therefrom to the Commission. Under the present statute, a party required to keep records could seek an exemption from these requirements on the ground of undue hardship either by applying to the Commission

or bringing a civil action in the district court. This subsection would require the party seeking the exemption first to make an application to the Commission and only if the Commission denies the request could the party bring an action in the district court. This subsection would also authorize the Commission to apply for a court order compelling compliance with the recordkeeping and reporting obligations set forth in the subsection.

Section 709(d)—This subsection would eliminate the present exemption from recordkeeping requirements for those employers in States and political subdivisions with fair employment practice laws or for employers subject to Federal executive order or agency recordkeeping requirements. Under this subsection, the Commission would consult with interested State and other Federal agencies in order to coordinate the Federal recordkeeping requirement under section 709(c) with those adopted by such agencies. The subsection further provides that the Commission furnish to such agencies information pertaining to State and local fair employment agencies, on condition that the information would not be made public prior to the institution of State or local proceedings.

Section 709(e)—Under this subsection, the Commission or the Attorney General would have the authority to direct the person having custody of any record or paper required by section 709(c) to be preserved or maintained to make such record or paper available for inspection or copying by the Commission or the Attorney General. The district court of the judicial district where the demand is made or the papers are located would have jurisdiction by appropriate process to compel the production of such record or paper. The subsection further provides that the members of the Commission and its representatives or the Attorney General and his representatives, could not, unless ordered by the court, disclose any record or paper produced except to Congress or a congressional committee, to other government agencies, or in the presentation of cases before a court or a grand jury.

SECTION 7

This section would amend section 710 of the Civil Rights Act of 1964 to make section 11 of the National Labor Relations Act (29 U.S.C. § 161), to the extent appropriate, applicable to Commission investigations. The person served by the Commission with the subpoena could petition the Commission to revoke the subpoena within 5 days. On application of the Commission, an appropriate district court could order a person to obey a subpoena and failure to comply with the court order would be punishable in contempt proceedings. Section 11 of the National Labor Relations Act also contains provisions relating to privileges of witnesses, immunity from prosecution, fees, process, service, and return, and information and assistance from other agencies.

SECTION 8 (a) AND (b)

These subsections would amend sections 703(a) and 703(c)(2) of the present statute to make it clear that discrimination against applicants for employment and applicants for membership in labor organizations is an unlawful employment practice. This subsection would merely be declaratory of present law.

SECTION 8 (c) (1) AND (2)

These subsections would amend section 704 (a) and (b) of the present statute to make clear that joint labor-management apprenticeship committees are covered by those provisions which relate to discriminatory advertising and retaliation against individuals participating in Commission proceedings.

SECTION 8(d)

This subsection would amend section 705(a) of the present statute to permit a member of the Commission to serve until his successor is appointed but not for more than 60 days when Congress is in session unless the successor has been nominated and the nomination submitted to the Senate, or after the adjournment *sine die* of the session of the Senate in which such nomination was submitted.

The rest of the subsection provides that the Chairman of the Commission on behalf of the Commission, would be responsible, except as provided in section 705(b), for the administrative operations of the Commission and for the appointment of officers, agents, attorneys, hearing examiners, and other employees of the Commission, and Regional Directors, with the concurrence of the General Counsel, in accordance with Federal law, as he deems necessary.

SECTION 8(e)

This subsection would provide a new section 705(b) of the Act which establishes a General Counsel appointed by the President, with the advice and consent of the Senate, for a four (4) year term. The responsibilities of the General Counsel would include, in addition to those the Commission may prescribe and provided by law, the prosecution and the conduct of all litigation as so provided in sections 706 and 707 of the Act. The General Counsel would appoint regional attorneys with the concurrence of the Chairman and other employees in the Office of the General Counsel in order to effectively carry out his functions and responsibilities.

Furthermore, this subsection would continue the General Counsel on the effective date of the act in that position until a successor has been appointed and qualified. Subsections (b) through (j) of section 705 of the act are redesignated as Subsections (e) through (k), respectively.

SECTION 8(f)

This subsection would amend section 705(g)(1) of the present Act to permit the Commission to accept uncompensated services for the purpose of publicizing its activities in the media.

SECTION 8(g)

This subsection would eliminate the provision in present section 705(g) authorizing the Commission to request the Attorney General to intervene in private civil actions and instead permit the Commission itself to intervene in such civil actions as provided in section 706.

SECTION 8(h)

This subsection would, subject to one exception, permit the Commission to delegate any of its functions, duties and powers to such persons as it may designate by regulation. A number of other Federal agencies have similar broad authority to delegate functions, e.g., the Securities and Exchange Commission (15 U.S.C. § 78(d)(1)), the Interstate Commerce Commission (49 U.S.C. § 17(5)), and the Federal Communications Commission (47 U.S.C. § 155(d)). The exception is as follows:

The Commission could not delegate its authority under section 709(b) to make agreements with States under which the Commission agrees to refrain from processing certain charges or to relieve certain persons from the recordkeeping requirements. The Commission would however be authorized to delegate this power or any of its other powers to groups of three or more members of the Commission.

SECTION 8(i)

This subsection would afford additional protection to officers, agents, and employees of the Commission in the performance of their official duties by making 18 U.S.C. 1114 applicable to them.

SECTION 9 (a), (b), (c), AND (d)

These subsections would make certain modifications in the position of the Chairman of the Commission and the members of the Commission and include the General Counsel in the executive pay scale, so as to place them in a position of parity with officials in comparable positions in agencies having substantially equivalent powers such as the National Labor Relations Board, the Federal Trade Commission and the Federal Power Commission.

SECTION 10

Section 715—This section, which is new, establishes an Equal Employment Opportunity Council (Council) composed of the Secretary of Labor, the Chairman of the Equal Employment Opportunity Commission, the Attorney General, the Chairman of the United States Civil Service Commission and the Chairman of the United States Civil Rights Commission or their respective designees. The Council will have the responsibility to coordinate and implement programs to promote the efficiency of all the various branches of government with responsibility for equal employment opportunities. The Council will submit an annual report to the President and Congress including a report of its activities and recommendations as to legislative or administrative changes it considers desirable.

SECTION 11

Section 717(a)—This subsection would make clear that all personnel actions of the U.S. Government affecting employees or applicants for employment shall be made free from any discrimination based on race, color, religion, sex, or national origin. All employees of any agency, department, office or commission having positions in the competitive service are covered by this section.

Section 717(b)—Under this subsection, the Civil Service Commission is given the authority to enforce the provisions of subsection (a) through appropriate remedies. These remedies may include but are not limited to back pay for applicants as well as employees denied promotion opportunities, reinstatement, hire, and immediate promotion. Any remedy needed to fully recompense the employee for his loss, both financially and professionally is considered appropriate under this subsection. The Civil Service Commission is also given authority to issue rules and regulations necessary to carry out its responsibilities under this section. The Civil Service Commission also shall annually review national and regional equal employment opportunity plans and be responsible for review and evaluation of all agency equal employment opportunity programs. Finally, agency and executive department heads and officers of the District of Columbia shall comply with such rules and regulations, submit an annual equal employment opportunity plan and notify any employee or applicant of any final action taken on any complaint of discrimination filed by him.

Section 717 (c) and (d)—The provisions of sections 706(f) through (k) as applicable, concerning private civil actions by aggrieved persons, are made applicable to aggrieved Federal employees or applicants. They could file a civil action within 30 days of notice of final action on a complaint made pursuant to section 717(b), or after 180 days from the filing of an initial charge, or an appeal with the Commission. The authority given to the Commission or the limitations placed upon the Commission under sections 706(f) through (k) would apply to the Civil Service Commission or the agencies, as appropriate, in connection with a civil action brought under section 707(c). So, for example, if the Civil Service Commission or agency does not issue an order within 180 days after a complaint or appeal is filed, the aggrieved person may also institute a civil action. If such action is instituted within one year of the filing of the complaint or appeal, the Civil Service Commission or agency may request that the action be stayed or dismissed upon a showing that it has been acting with due diligence, that it anticipates issuance of an order within a reasonable time on the com-

plaint or appeal, that the case or proceeding is exceptional and that extension of exclusive jurisdiction of the Civil Service Commission or agency is warranted.

Section 717(e)—This subsection provides that nothing in this act relieves any Government agency or official of his existing nondiscriminating obligations under the Constitution, other statutes, or his or its responsibilities under Executive Order 11478 relating to equal employment opportunity in the Federal Government.

SECTION 12

Section 716 is amended to provide for consultation of the Attorney General, the Chairman of the Civil Service Commission, and the Chairman of the Equal Employment Opportunity Commission regarding rules, regulations and policy in the performance of their responsibilities under this act. It does not in any way limit each of the officials in independently carrying out their respective obligations under this title.

SECTION 13

This section provides that the amended provisions of Section 706 would apply to charges filed with the Commission prior to the effective date of this Act. In addition, those new or amended sections of Title VII not specifically made inapplicable to current charges, would be applicable to such existing charges.

SECTION 14

This section provides that no government contract, or portion thereof, can be denied, withheld, terminated, or superseded by a government agency under the Executive Order 11246 or any other order of law without according the respective employer a full hearing and adjudication pursuant to 5 U.S.C. § 554 et seq. where such employer has an affirmative action program for the same facility which had been accepted by the Government within the prior twelve months. Such plan shall be deemed to be accepted by the Government if the appropriate compliance agency has accepted such plan and the Office of Federal Contract Compliance has not disapproved of such plan within 45 days. However, an employer who substantially deviates from the previously accepted plan is excluded from the protection afforded by this section.

The PRESIDING OFFICER. The question now is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question now is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on final passage of S. 2515. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. JACKSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Maine (Mr. MUSKIE), and the Senator from Arkansas (Mr. FULBRIGHT) are necessarily absent.

I further announce that, if present and voting, the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Maine (Mr. MUSKIE) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) is absent by leave of the Senate on official committee business.

The Senator from Wyoming (Mr. HANSEN) and the Senator from Iowa (Mr. MILLER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The result was announced—yeas 73, nays 16, as follows:

[No. 56 Leg.]

YEAS—73

Aiken	Fong	Nelson
Allott	Gambrell	Packwood
Anderson	Gravel	Pastore
Beall	Griffin	Pearson
Bellmon	Gurney	Pell
Bennett	Harris	Percy
Bentsen	Hart	Proxmire
Bible	Hatfield	Randolph
Boggs	Hollings	Ribicoff
Brooke	Hruska	Roth
Buckley	Hughes	Saxbe
Burdick	Humphrey	Schweiker
Byrd, W. Va.	Inouye	Scott
Cannon	Javits	Smith
Case	Jordan, Idaho	Spong
Chiles	Kennedy	Stafford
Church	Magnuson	Stevens
Cook	Mansfield	Stevenson
Cooper	Mathias	Symington
Cotton	McGee	Taft
Cranston	McIntyre	Tunney
Curtis	Metcalf	Weicker
Dole	Mondale	Williams
Dominick	Montoya	
Eagleton	Moss	

NAYS—16

Allen	Fannin	Talmadge
Brock	Goldwater	Thurmond
Byrd, Va.	Jordan, N.C.	Tower
Eastland	Long	Young
Ellender	Sparkman	
Ervin	Stennis	

NOT VOTING—11

Baker	Hartke	Miller
Bayh	Jackson	Mundt
Fulbright	McClellan	Muskie
Hansen	McGovern	

So the bill (S. 2515) was passed, as follows:

S. 2515

An act to further promote equal employment opportunities for American workers

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Equal Employment Opportunities Enforcement Act of 1972".

SEC. 2. Section 701 of the Civil Rights Act of 1961 (78 Stat. 253; 42 U.S.C. 2000e) is amended as follows:

(1) In subsection (a) insert "governments, governmental agencies, political subdivisions," after the word "individuals".

(2) Subsection (b) is amended to read as follows:

"(b) The term 'employer' means a person engaged in an industry affecting commerce who has fifteen or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year, and any agent of such a person, but such term does not include (1) the United States, a corporation wholly owned by the Government of the United States, an Indian tribe, or any department or agency of the District of Columbia subject by statute to procedures of the competitive service (as defined in section 2102 of title 5 of the United States Code), or (2) a bona fide private membership club (other than a labor organization) which is exempt from taxation under section 501(c) of the Internal Revenue Code of 1954, except that during the first year after the date of enactment of the Equal Employment Opportunities Enforcement Act of 1971, persons having fewer than twenty-five employees (and their agents) shall not be considered employers."

(3) In subsection (c) beginning with the semicolon strike out through the word "assistance".

(4) In subsection (e) strike out between "(A)" and "and such labor organization," and insert in lieu thereof "twenty-five or more during the first year after the date of enactment of the Equal Employment Opportunities Enforcement Act of 1972, or (B) fifteen or more thereafter,".

(5) In subsection (f), change the period at the end of the subsection to a colon, and add thereafter the following words: *"Provided, however,* That the term 'employee' shall not include any person elected to public office in any State or political subdivision of any State by the qualified voters thereof, or any person chosen by such officer to be a personal assistant, or an immediate adviser in respect to the exercise of the constitutional or legal powers of the office."

(6) At the end of subsection (h) insert before the period a comma and the following: "and further includes any governmental industry, business, or activity".

(7) After subsection (i) insert the following new subsection (j):

"(j) The term 'religion' includes all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable to reasonably accommodate to an employee's or prospective employee's, religious observance or practice without undue hardship on the conduct of the employer's business."

SEC. 3. Section 702 of the Civil Rights Act of 1964 (78 Stat. 255; 42 U.S.C. 2000e–1) is amended to read as follows:

"EXEMPTION

"SEC. 702. This title shall not apply to an employer with respect to the employment of aliens outside any State, or to a religious corporation, association, educational institution, or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its religious activities."

SEC. 4. (a) Subsections (a) through (g) of section 706 of the Civil Rights Act of 1964 (78 Stat. 259; 42 U.S.C. 2000e–5(a)–(g)) are amended to read as follows:

"(a) The Commission is empowered, as hereinafter provided, to prevent any person from engaging in any unlawful employment practice as set forth in section 703 or 704 of this title.

"(b) Whenever a charge is filed by or on behalf of a person claiming to be aggrieved, or by an officer or employee of the Commission upon the request of any person claiming to be aggrieved, alleging that an employer, employment agency, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, has engaged in an unlawful employment practice, the Commission shall serve a notice of the charge (including the date, place, and circumstances of the alleged unlawful employment practice) on such employer, employment agency, labor organiza-

tion, or joint labor-management committee (hereinafter referred to as the 'respondent') within ten days, and shall make an investigation thereof. Charges shall be in writing under oath or affirmation and shall contain such information and be in such form as the Commission requires. Charges shall not be made public by the Commission. If the Commission determines after such investigation that there is not reasonable cause to believe that the charge is true, it shall dismiss the charge and promptly notify the person claiming to be aggrieved and the respondent of its action. In determining whether reasonable cause exists, the Commission shall accord substantial weight to final findings and orders made by State or local authorities in proceedings commenced under State or local law pursuant to the requirements of subsections (c) and (d). If the Commission determines after such investigation that there is reasonable cause to believe that the charge is true, the Commission shall endeavor to eliminate any such alleged unlawful employment practice by informal methods of conference, conciliation, and persuasion. Nothing said or done during and as a part of such informal endeavors may be made public by the Commission, its officers or employees, or used as evidence in a subsequent proceeding without the written consent of the persons concerned. Any person who makes public information in violation of this subsection shall be fined not more than $1,000 or imprisoned for not more than one year, or both. The Commission shall make its determination on reasonable cause as promptly as possible and, so far as practicable, not later than one hundred and twenty days from the filing of the charge or, where applicable under subsection (c) or (d), from the date upon which the Commission is authorized to take action with respect to the charge.

"(c) In the case of a charge filed by or on behalf of a person claiming to be aggrieved alleging an unlawful employment practice occurring in a State or political subdivision of a State which has a State or local law prohibiting the unlawful employment practice alleged and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof the Commission shall take no action with respect to the investigation of such charge before the expiration of sixty days after proceedings thave been commenced under the State or local law, unless such proceedings have been earlier terminated, except that such sixty-day period shall be extended to one hundred and twenty days during the first year after the effective date of such State or local law. If any requirement for the commencement of such proceedings is imposed by a State or local authority other than a requirement of the filing of a written and signed statement of the facts upon which the proceeding is based, the proceeding shall be deemed to have been commenced for the purposes of this subsection at the time such statement is sent by registered or certified mail to the appropriate State or local authority.

"(d) In the case of any charge filed by an officer or employee of the Commission alleging an unlawful employment practice occurring in a State or political subdivision of a State which has a State or local law prohibiting the practice alleged and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof the Commission shall, before taking any action with respect to such charge, notify the appropriate State or local officials and, upon request, afford them a reasonable time, but not less than sixty days (provided that such sixty-day period shall be extended to one hundred and twenty days during the first year after the effective date of such State or local law), unless a shorter period is requested, to act under such State or local law to remedy the practice alleged.

"(e) A charge under this section shall be filed within one hundred and eighty days after the alleged unlawful employment practice occurred and notice of the charge (including the date, place and circumstances of the alleged unlawful employment practice) shall be served upon the person against whom such charge is made within ten days thereafter, except that in a case of an unlawful employment practice with respect to which the person aggrieved has initially instituted proceedings with a State or local agency with authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, such charge shall be filed by or on behalf of the person aggrieved within three hundred days after the alleged unlawful employment practice occurred, or within thirty days after receiving notice that the State or local agency has terminated the proceedings under the State or local law, whichever is earlier, and a copy of such charge shall be filed by the Commission with the State or local agency.

"(f) (1) If within thirty days after a charge is filed with the Commission or within thirty days after expiration of any period of reference under subsection (c) or (d), the Commission has been unable to secure from the respondent a conciliation agreement acceptable to the Commission, the Commission shall so notify the General Counsel who may bring a civil action against any respondent not a government, governmental agency, or political subdivision named in the charge. In the case of a respondent which is a government, governmental agency, or political subdivision, the Commission shall take no further action and shall refer the case to the Attorney General who may bring a civil action against such respondent in the appropriate United States district court. The person or persons aggrieved shall have the right to intervene in a civil action brought by the General Counsel or the Attorney General in a case involving a government, governmental agency, or political subdivision. If a charge filed with the Commision pursuant to subsection (b) is dismissed by the Commission, or if within one hundred and fifty days from the filing of such charge or the expiration of any period of reference under subsection (c) or (d), whichever is later, the General Counsel has not filed a civil action under this section or the Attorney General has not filed a civil action in a case involving a government, governmental agency, or political subdivision, or the Commission has not entered into a conciliation agreement to which the person aggrieved is a party, the Commission or the Attorney General in a case involving a government, governmental agency, or political subdivision shall so notify the person aggrieved and within ninety days after the giving of such notice a civil action may be brought against the respondent named in the charge (1) by the person named in the charge as claiming to be aggrieved or (2) if such charge was filed by an officer or employee of the Commission, by any person whom the charge alleges was aggrieved by the alleged unlawful employment practice. Upon application by the complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the action without the payment of fees, costs, or security. Upon timely application, the court may, in its discretion, permit the Attorney General to intervene in such civil action if he certifies that the case is of general public importance. Upon request, the court may, in its discretion, stay further proceedings for not more than sixty days pending the termination of State or local proceedings described in subsections (c) or (d) of this section or further efforts of the Commission to obtain voluntary compliance.

"(2) In any such proceeding the General Counsel or the Attorney General in a case involving a government, governmental agency or political subdivision may file with the clerk of such court a request that a court of three judges be convened to hear and determine the case. Such request by the General Counsel or the Attorney General shall be accompanied by a certificate that, in his opinion, the case is of general public importance. A copy of the certificate and request for a three-judge court shall be immediately furnished by such clerk, to the chief judge of the circuit (or in his absence, the presiding circuit judge of the circuit) in which the case is pending. Upon receipt of the copy of such request it shall be the duty of the chief judge of the circuit or the presiding circuit judge, as the case may be, to designate immediately three judges in such circuit, of whom at least one shall be a circuit judge and another of whom shall be a district judge of the court in which the proceeding was instituted, to hear and determine such case, and it shall be the duty of the judges so designated to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited. An appeal from the final judgment of such court will lie to the Supreme Court.

"(3) In the event the General Counsel or the Attorney General fails to file such a request in any such proceeding, it shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the district is available to hear and determine the case, the chief judge of the district, or the acting chief judge, as the case may be, shall certify this fact to the chief judge of the circuit (or in his absence, the acting chief judge) who shall then designate a district or circuit judge of the circuit to hear and determine the case.

"(4) It shall be the duty of the judge designated pursuant to this subsection to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited.

"(5) Whenever a charge is led with the Commission and the Commission concludes on the basis of a preliminary investigation that prompt judicial action is necessary to carry out the purposes of this Act, the Commission or the Attorney General in a case involving a government, governmental agency, or political subdivision, may bring an action for appropriate temporary or prelimnary relief pending final disposition of such charge. It shall be the duty of a court having jurisdicton over proceedings under this section to assign cases for hearing at the earliest practicable date and to cause such cases to be in every way expedited.

"(6) The provisions of section 706 (f) through (k), as applicable, shall govern civil actions brought hereunder.

"(g) (1) Each United States district court and each United States court of a place subject to the jurisdiction of the United States shall have jurisdiction of actions brought under this title. Such an action may be brought in any judicial district in the State in which the unlawful employment practice as alleged to have been committed, in the judicial district in which the employment records relevant to such practice are maintained and administered, or in the judicial district in which the injured person would have worked but for the alleged unlawful employment practice, but if the respondent is not found within any such district, such an action may be brought within the judicial district in which the respondent has his principal office. For purposes of sections 1404 and 1406 of title 28 of the United States Code,

the judicial district in which the respondent has his principal office shall in all cases be considered a district in which the action might have been brought.

"(2) If the court finds that the respondent has engaged in or is engaging in an unlawful employment practice charged in the complaint, the court may enjoin the respondent from engaging in such unlawful employment practice, and order such affirmative action as may be appropriate, which may include, but is not limited to, reinstatement or hiring of employees, with or without backpay (payable by the employer, employment agency, or labor organization, as the case may be, responsible for the unlawful employment practice), or any other equitable relief as the court deems appropriate. Backpay liability shall not exceed that which accrues from a date more than two years prior to the filing of a charge with the Commission. Interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the backpay otherwise allowable."

"(b) Subsection (k) of section 706 of such Act is amended to read as follows:

"(k) In any action or proceeding under this title the Commission or court, as the case may be, may allow the prevailing party, other than the Commission or the United States, a reasonable attorney's fee as part of the costs, and the Commission and the United States shall be liable for costs the same as a private person. Any prevailing party in any proceeding brought by or against the Commission of the United States under this title, that is an employer of less than twenty-five employees or a labor organization of less than twenty-five members shall, upon application to the Commission, be indemnified by the United States for the cost of his defense against the charge in an amount not to exceed $5,000, including all reasonable expenses and attorney's fees incurred after the serving of notice on him of the charge.

"Any prevailing party in such a proceeding that is an employer of twenty-five to one hundred employees whose average income from such employment is less than $7,500, or a labor organization with twenty-five to one hundred members, shall, upon application to the Commission, be indemnified by the United States for one-half of the cost of his defense against the charge not to exceed $2,500, including all reasonable expenses and attorney's fees incurred after the serving of notice on him of the charge. The costs evidenced by respondent's vouchers of his expenses and attorney's fees shall be deemed reasonable so long as they are comparable to the total amount of the expenses and attorney's fees incurred by the Commission in investigating and prosecuting the charge. Disallowance of any part of such request shall be made a part of the Commission's order in such proceedings. Any United States court before which a proceeding under this title shall be brought may upon request by the respondent make the determination provided for in this subsection. The Treasurer of the United States shall indemnify the respondent as provided for herein upon certification by the Commission."

SEC. 4A. The fifth sentence of section 706 (f)(1) of the Civil Rights Act of 1964, as amended by the previous section, is amended to read as follows: "Upon timely application, the court may, in its discretion, permit the General Counsel, or the Attorney General in a case involving a government, government agency, or political subdivision, to intervene in such civil action if he certifies that the case is of general public importance."

SEC. 4B. Section 706 of the Civil Rights Act of 1964 is amended by adding at the end thereof the following new subsection:

"(l) If the judge designated pursuant to subsection (f)(3) of this section has not assigned the case for trial within one hundred and twenty days after issue has been joined, that judge may appoint a master pursuant to rule 53 of the Federal Rules of Civil Procedure."

SEC. 5. Section 707 of the Civil Rights Act of 1964 is amended by adding at the end thereof the following new subsection:

"(c) Effective two years after the date of enactment of the Equal Employment Opportunities Enforcement Act of 1972, the functions of the Attorney General under this section shall be transferred to the Commission, together with such personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with such functions unless the President submits, and neither House of Congress vetoes, a reorganization plan pursuant to chapter 9, of title 5, United States Code, inconsistent with the provisions of this subsection. The Commission shall carry out such functions in accordance with the provisions of subsection (d) and (e) of this section.

"(d) Upon the transfer of functions provided for in subsection (c) of this section, in all suits commenced pursuant to this section prior to the date of such transfer, proceedings shall continue without abatement, all court orders and decrees shall remain in effect, and the Commission shall be substituted as a party for the United States of America, the Attorney General, or the Acting Attorney General, as appropriate.

"(e) Subsequent to the date of enactment of the Equal Employment Opportunities Enforcement Act of 1972, the Commission shall have authority to investigate and act on a charge of a pattern or practice of discrimination, whether filed by or on behalf of a person claiming to be aggrieved or by an officer or employee of the Commission. All such actions shall be conducted in accordance with the procedures set forth in section 706."

SEC. 6. (a) Subsections (b), (c), and (d) of section 709 of the Civil Rights Act of 1964 (78 Stat. 263; 42 U.S.C. 2000e-8(b)-(d)) are amended to read as follows:

"(b) The Commission may cooperate with State and local agencies charged with the administration of State fair employment practices laws and, with the consent of such agencies, may, for the purpose of carrying out its functions and duties under this title and within the limitation of funds appropriated specifically for such purpose, engage in and contribute to the cost of research and other projects of mutual interest undertaken by such agencies, and utilize the services of such agencies and their employees, and, notwithstanding any other provision of law, pay by advance or reimbursement such agencies and their employees for services rendered to assist the Commission in carrying out this title. In furtherance of such cooperative efforts, the Commission may enter into written agreements with such State or local agencies and such agreements may include provisions under which the Commission shall refrain from processing a charge in any cases or class of cases specified in such agreements or under which the Commission shall relieve any person or class of persons in such State or locality from requirements imposed under this section. The Commission shall rescind any such agreement whenever it determines that the agreement no longer serves the interest of effective enforcement of this title.

"(c) Every employer, employment agency, and labor organization subject to this title shall (1) make and keep such records relevant to the determinations of whether unlawful employment practices have been or are being committed, (2) preserve such records for such periods, and (3) make such reports therefrom as the Commission shall prescribe by regulation or order, after public hearing, as reasonable, necessary, or appropriate for the enforcement of this title or the regulations or orders thereunder. The Commission shall, by regulation, require each employer, labor organization, and joint labor-management committee subject to this title which controls an apprenticeship or other training program to maintain such records as are reasonably necessary to carry out the purposes of this title, including, but not limited to, a list of applicants who wish to participate in such program, including the chronological order in which applications were received, and to furnish to the Commission upon request, a detailed description of the manner in which persons are selected to participate in the apprenticeship or other training program. Any employer, employment agency, labor organization, or joint labor management committee which believes that the application to it of any regulation or order issued under this section would result in undue hardship may apply to the Commission for an exemption from the application of such regulation or order, and, if such application for an exemption is denied, bring a civil action in the United States district court for the district where such records are kept. If the Commission or the court, as the case may be, finds that the application of the regulation or order to the employer, employment agency, or labor organization in question would impose an undue hardship, the Commission or the court, as the case may be, may grant appropriate relief. If any person required to comply with the provisions of this subsection fails or refuses to do so, the United States district court for the district in which such person is found, resides, or transacts business, shall, upon application of the Commission, or the Attorney General in a case involving a government, governmental agency or political subdivision, have jurisdiction to issue to such person an order requiring him to comply.

"(d) In prescribing requirements pursuant to subsection (c) of this section, the Commission shall consult with other interested State and Federal agencies and shall endeavor to coordinate its requirements with those adopted by such agencies. The Commission shall furnish upon request and without cost to any State or local agency charged with the administration of a fair employment practice law information obtained pursuant to subsection (c) of this section from any employer, employment agency, labor organization, or joint labor-management committee subject to the jurisdiction of such agency. Such information shall be furnished on condition that it not be made public by the recipient agency prior to the institution of a proceeding under State or local law involving such information. If this condition is violated by a recipient agency, the Commission may decline to honor subsequent requests pursuant to this subsection."

(b) Section 709 or the Civil Rights Act of 1964 is amended by: (1) redesignating subsection (e) as subsection (f) and (2) by adding immediately after section 709(d) as amended, the following subsection (e):

"(e) Any record or paper required by section 709(c) of this title to be preserved or maintained shall be made available for inspection, reproduction, and copying by the Commission or its representative, or by the Attorney General or his representative, upon demand in writing directed to the person having custody, possession, or control of such record or paper. Unless otherwise ordered by a court of the United States, neither the members of the Commission or its representative nor the Attorney General or his representative shall disclose any record or paper produced pursuant to this title, or any reproduction or copy, except to Congress or any committee thereof, or to a governmental agency, or in the presentation of any case or proceeding before any court or grand jury. The United States district court for the district in which a demand is made or in which a record or paper so demanded is located, shall have jurisdiction to compel

by appropriate process the production of such record or paper."

SEC. 7. Section 710 of the Civil Rights Act of 1964 (78 Stat. 264; 42 U.S.C. 2000e–9) is amended to read as follows:

"INVESTIGATORY POWERS

"SEC. 710. For the purpose of all hearings and investigations conducted by the Commission or its duly authorized agents or agencies, section 11 of the National Labor Relations Act (49 Stat. 455 29 U.S.C. 161) shall apply."

SEC. 8. (a) Section 703(a)(2) of the Civil Rights Act of 1961 (78 Stat. 255; 42 U.S.C. 2000e–2(a)(2)) is amended by inserting the words "or applicants for employment" after the words "his employees".

(b) Section 703(c)(2) of such Act is amended by inserting the words "or applicants for membership" after the word "membership".

(c)(1) Section 704(a) of such Act is amended by inserting "or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs," after "employment agency" in section 704(a).

(2) Section 704(b) of such Act is amended by (A) striking out "or employment agency" and inserting in lieu thereof "employment agency, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs,", and (B) inserting a comma and the words "or relating to admission to, or employment in, any program established to provide apprenticeship or other training by such a joint labor-management committee" before the word "indicating".

(d) Section 705(a) of the Civil Rights Act of 1964 (785 Stat. 258, 42 U.S.C. 200e–4(a)) is amended to read as follows:

"SEC. 705. (a) There is hereby created a Commission to be known as the Equal Employment Opportunity Commission, which shall be composed of five members, unless additional members are appointed as hereinafter provided in this subsection. Not more than the least number of members sufficient to constitute a majority of the members of the Commission shall be members of the same political party. Members of the Commission shall be appointed by the President by and with the advice and consent of the Senate for a term of five years. Any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed, and all members of the Commission shall continue to serve until their successors are appointed and qualified, except that no such member of the Commission shall continue to serve (1) for more than sixty days when the Congress is in session unless a nomination to fill such vacancy shall have been submitted to the Senate, or (2) after the adjournment sine die of the session of the Senate in which such nomination was submitted. The President shall designate one member to serve as Chairman of the Commission, and one member to serve as Vice Chairman. The Chairman shall be responsible on behalf of the Commission for the administrative operations of the Commission, and, except as provided in subsection (b), shall appoint, in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, such officers, agents, attorneys, hearing examiners, and employees, except that regional directors of the Commission shall be appointed by the Chairman with the concurrence of the General Counsel, as he deems necessary to assist it in the performance of its functions and to fix their compensation in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates: *Provided*, That assignment, removal, and compensation of hearing examiners shall be in accordance with sections 3105, 3344, 5362, and 7521 of title 5, United States Code. At any time after one year from the effective date of the Equal Employment Opportunities Enforcement Act of 1972, the Chairman of the Commission, if he determines that the appointment of additional members of the Commission would help to effectuate the purposes of this title, may request the President to appoint up to four additional members of the Commission. Upon receiving such a request, the President may appoint up to four additional members of the Commission by and with the advice and consent of the Senate. Such additional members shall be appointed for a term of five years. Upon the expiration of the term of appointment of any such additional member no further appointment to the same position shall be made, and the total number of members of the Commission shall be reduced accordingly unless the Chairman of the Commission determines that the appointment of one or more additional members of the Commission continues to be necessary to better effectuate the purposes of this title and so advises the President."

(c)(1) Section 705 of the Act is amended by inserting the following new subsection (b):

"(b) There shall be a General Counsel of the Commission appointed by the President, by and with the advice and consent of the Senate, for a term of four years. The General Counsel shall have responsibility for the filing of complaints and the conduct of litigation as provided in sections 706 and 707 of this title. The General Counsel shall have such other duties as the Commission may prescribe or as may be provided by law. The General Counsel shall appoint regional attorneys with the concurrence of the Chairman, and shall appoint such other employees in the Office of the General Counsel as may be necessary to assist in carrying out the General Counsel's responsibilities and functions under this title. The General Counsel of the Commission on the effective date of this Act shall continue in such position and perform the functions specified in this subsection **until a successor is appointed and** qulified."

(2) Subsections (b) through (j) of section 705 of such Act are redesignated as subsections (c) through (k), respectively.

(f) Section 705(h)(1) of such Act is amended by inserting at the end thereof the following: ", and to accept voluntary and uncompensated services, for the limited purpose of publicizing in the media the Commission and its activities notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b))".

(g) Section 705(h)(6) of such Act, as redesignated by this section, is amended to read as follows:

"(6) to intervene in a civil action brought by an aggrieved party under section 706."

(h) Section 713 of such Act is amended by adding at the end thereof the following new subsections:

"(c) Except for the rulemaking power as defined in subchapter II of chapter 5 of title 5, United States Code, with reference to general rules as distinguished from rules of specific applicability, and the power to enter into or rescind agreements with State and local agencies, as provided in subsection (b) of section 709, under which the Commission agrees to refrain from processing a charge in any cases or class of cases or under which the Commission agrees to relieve any person or class of persons in such State or locality from requirements imposed by section 709, the Commission may delegate any of its functions, duties, and powers to such person or persons as the Commission may designate by regulation, including functions, duties, and powers with respect to hearing, determining, ordering, certifying, reporting or otherwise acting as to any work, business, or matter. Nothing in this subsection authorizes the Commission to provide for persons other than those referred to in clauses (2) and (3) of subsection (b) of section 556 of title 5 of the United States Code to conduct any hearing to which that section applies.

"(d) The Commission is authorized to delegate to any group of three or more members of the Commission any or all of the powers which it may itself exercise."

(i) Section 714 of such Act is amended by striking out "section 11" and inserting in lieu thereof "sections 111 and 1114".

SEC. 9. (a) Section 5314 of title 5 of the United States Code is amended by adding at the end thereof the following new clause:

"(58) Chairman, Equal Employment Opportunity Commission."

(b) Clause (72) of section 5315 of such title is amended to read as follows:

"(72) Members, Equal Employment Opportunity Commission (8)."

(c) Clause (111) of section 5316 of such title is repealed.

(d) Section 5316 of such title is amended by adding at the end thereof the following new clause:

"(131) General Counsel of the Equal Employment Opportunity Commission."

SEC. 10. Section 715 of the Civil Rights Act of 1964 is amended to read as follows:

"SEC. 715. There shall be established an Equal Employment Opportunity Coordinating Council (hereinafter referred to in this paragraph as the Council) composed of the Secretary of Labor, the Chairman of the Equal Employment Opportunity Commission, the Attorney General, and the Chairman of the United States Civil Rights Commission, or their respective delegates. The Council shall have the responsibility for developing and implementing agreements, policies and practices designed to maximize effort, promote efficiency, and eliminate conflict, competition, duplication and inconsistency among the operations, functions and jurisdictions of the various departments, agencies and branches of the Federal Government responsible for the implementation and enforcement of equal employment opportunity legislation, orders, and policies. On or before July 1 of each year, the Council shall transmit to the President and to the Congress a report of its activities, together with such recommendations for legislative or administrative changes as it concludes are desirable to further promote the purposes of this section."

SEC. 11. Title VII of the Civil Rights Act of 1964 (78 Stat. 253; 42 U.S.C. 2000e et seq.) is amended by adding at the end thereof the following new section:

"NONDISCRIMINATION IN FEDERAL GOVERNMENT EMPLOYMENT

"SEC. 717. (a) All personnel actions affecting employees or applicants for employment (except with regard to aliens employed outside the limits of the United States) in military departments as defined in section 102 of title 5, United States Code, in executive agencies (other than the General Accounting Office) as defined in section 105 of title 5, United States Code (including employees and applicants for employment who are paid from nonappropriated funds), in the United States Postal Service and the Postal Rate Commission, in those units of the Government of the District of Columbia having positions in the competitive service, and in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, and in the Library of Congress shall be made free from any discrimination based on race, color, religion, sex, or national origin.

"(b) Except as otherwise provided in this subsection, the Civil Service Commission shall have authority to enforce the provisions of subsection (a) through appropriate remedies, including reinstatement or hiring of employees with or without back pay, as will effectuate the policies of this section,

and shall issue such rules, regulations, orders and instructions as it deems necessary and appropriate to carry out its responsibilities under this section. The Civil Service Commission shall—

"(1) be responsible for the annual review and approval of a national and regional equal employment opportunity plan which each department and agency and each appropriate unit referred to in section 717(a) shall submit in order to maintain an affirmative program of equal employment opportunity for all such employees and applicants for employment;

"(2) be responsible for the review and evaluation of the operation of all agency equal employment opportunity programs, periodically obtaining and publishing (on at least a semiannual basis) progress reports from each such department, agency, or unit; and

"(3) consult with and solicit the recommendations of interested individuals, groups, and organizations relating to equal employment opportunity.

The head of each such department, agency, or unit shall comply with such rules, regulations, orders, and instructions which shall include a provision that an employee or applicant for employment shall be notified of any final action taken on any complaint of discrimination filed by him thereunder. The plan submitted by each department, agency, and unit shall include, but not be limited to—

"(1) provisions for the establishment of training and education programs designed to provide a maximum opportunity for employees to advance so as to perform at their highest potential; and

"(2) a description of the qualifications in terms of training and experience relating to equal employment opportunity for the principal and operating officials of each such department, agency, or unit responsible for carrying out the equal employment opportunity program and of the allocation of personnel and resources proposed by such department, agency, or unit to carry out its equal employment opportunity program.

With respect to employment in the Library of Congress, authorities granted in this subsection to the Civil Service Commission shall be exercised by the Librarian of Congress.

"(c) Within thirty days of receipt of notice of final action taken by a department, agency, or unit referred to in subsection 717(a), or by the Civil Service Commission upon an appeal from a decision or order of such department, agency, or unit on a complaint of discrimination based on race, color, religion, sex or national origin, brought pursuant to subsection (a) of this section, Executive Order 11478 or any succeeding executive orders, or after one hundred and eighty days from the filing of the initial charge with the department, agency, or unit or with the Civil Service Commission on appeal from a decision or order of such department, agency, or unit until such time as final action may be taken by a department, agency, or unit, an employee or applicant for employment, if aggrieved by the final disposition of his complaint, or by the failure to take final action on his complaint, may file a civil action as provided in section 706, in which civil action the head of the department, agency, or unit, as appropriate, shall be the defendant.

"(d) The provisions of section 706 (f) through (k), as applicable, shall govern civil actions brought hereunder.

"(e) Nothing contained in this Act shall relieve any Government agency or official of its or his primary responsibility to assure nondiscrimination in employment as required by the Constitution and statutes or of its or his responsibilities under Executive Order 11478 relating to equal employment opportunity in the Federal Government."

SEC. 12. Section 716 of the Civil Rights Act of 1964 (42 U.S.C. 2000(e)–15, 78 Stat. 266) is amended by adding at the end thereof the following new subsection:

"(d) In the performance of their responsibilities under this Act, the Attorney General, the Chairman of the Civil Service Commission and the Chairman of the Equal Employment Opportunity Commission shall consult regarding their rules, regulations, and policies."

SEC. 13. Section 5108(c) of title 5, United States Code, is amended by—

(1) striking out the word "and" at the end of paragraph (9);

(2) striking out the period at the end of paragraph (10) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by adding immediately after paragraph (10) the last time it appears therein the following new paragraph:

"(11) the Chairman of the Equal Employment Opportunity Commission, subject to the standards and procedures prescribed by this chapter, may place an additional ten positions in the Equal Employment Opportunity Commission in GS–16, GS–17, and GS–18 for the purposes of carrying out title VII of the Civil Rights Act of 1964."

SEC. 14. The amendments made by this Act to section 706 of the Civil Rights Act of 1964 shall be applicable with respect to charges pending with the Commission on the date of enactment of this Act and all charges filed thereafter.

SEC. 15. No Government contract, or portion thereof, with any employer, shall be denied, withheld, terminated, or suspended, by any agency or officer of the United States under any equal employment opportunity law or order, where such employer has an affirmative action plan which has previously been accepted by the Government for the same facility within the past twelve months without first according such employer full hearing and adjudication under the provisions of title 5, United States Code, section 554, and the following pertinent sections: *Provided,* That if such employer has deviated substantially from such previously agreed to affirmative action plan, this section shall not apply: *Provided further,* That for the purposes of this section an affirmative action plan shall be deemed to have been accepted by the Government at the time the appropriate compliance agency has accepted such plan unless within forty-five days thereafter the Office of Federal Contract Compliance has disapproved such plan.

SEC. 16. The Chairman of the United States Civil Service Commission, or his delegate, shall be a member of the Equal Employment Opportunity Coordinating Council established by section 715 of the Civil Rights Act of 1964, as amended by this Act.

The PRESIDING OFFICER. Under the previous unanimous-consent agreement, the Senate will now proceed to the consideration of H.R. 1746, which the clerk will state.

The legislative clerk read as follows:

A bill (H.R 1746) to further promote equal opportunity for American workers.

The PRESIDING OFFICER. Under the agreement, all after the enacting clause is stricken, and the language of S. 2515 as passed by the Senate is substituted therefor.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

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

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. JACKSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Maine (Mr. MUSKIE) are necessarily absent.

I further announced that, if present and voting, the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Maine (Mr. MUSKIE) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) is absent by leave of the Senate on official committee business.

The Senator from Wyoming (Mr. HANSEN) and the Senator from Iowa (Mr. MILLER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The result was announced—yeas 72, nays 17, as follows:

[No. 57 Leg.]

YEAS—72

Aiken	Fong	Moss
Allott	Gambrell	Nelson
Anderson	Gravel	Packwood
Beall	Griffin	Pastore
Bellmon	Gurney	Pearson
Bennett	Harris	Pell
Bentsen	Hart	Percy
Bible	Hatfield	Proxmire
Boggs	Hollings	Randolph
Brooke	Hruska	Ribicoff
Burdick	Hughes	Roth
Byrd, W. Va.	Humphrey	Saxbe
Cannon	Inouye	Schweiker
Case	Javits	Scott
Chiles	Jordan, Idaho	Smith
Church	Kennedy	Spong
Cook	Magnuson	Stafford
Cooper	Mansfield	Stevens
Cotton	Mathias	Stevenson
Cranston	McGee	Symington
Curtis	McIntyre	Taft
Dole	Metcalf	Tunney
Dominick	Mondale	Weicker
Eagleton	Montoya	Williams

NAYS—17

Allen	Ervin	Stennis
Brock	Fannin	Talmadge
Buckley	Goldwater	Thurmond
Byrd, Va.	Jordan, N.C.	Tower
Eastland	Long	Young
Ellender	Sparkman	

NOT VOTING—11

Baker	Hartke	Miller
Bayh	Jackson	Mundt
Fulbright	McClellan	Muskie
Hansen	McGovern	

So the bill (H.R. 1746) was passed.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that in the engrossment of the Senate amendments to H.R. 1746, the Secretary of the Senate be authorized to make necessary technical and clerical corrections.

The PRESIDING OFFICER (Mr. ROTH). Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that H.R. 1746 as amended by the Senate be printed as passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I simply wish to extend the gratitude of the Senate to the distinguished Senator

from New Jersey (Mr. WILLIAMS), the able chairman of the Committee on Labor and Public Welfare.

Day after day for the past month or more he pressed here on the floor for the successful adoption of the equal opportunity proposal. Today's overwhelming vote indicates beyond all doubt the effectiveness of his efforts. The Senate is deeply grateful.

The Senate is grateful as well for the splendid cooperative efforts of the distinguished Senator from New York (Mr. JAVITS), the able ranking minority member of the committee. His support and assistance were indispensable to such an outstanding achievement.

To be singled out for special tribute as well, are the Senators from North Carolina (Mr. ERVIN) and Alabama (Mr. ALLEN). To be sure, they employed the procedures of the Senate to protect to the utmost their positions on this measure, but they did so fairly and openly. They expressed their views strongly and they did so sincerely and they are to be commended.

The distinguished Senator from Colorado (Mr. DOMINICK) is to be singled out also. It was through his efforts and those of many other Members that the Senate was able to reach final disposition of the equal opportunities proposal.

Finally, the Senate as a whole may be commended. In the final analysis, all Members joined to assure final action today.

Mr. WILLIAMS. Mr. President, I want to express my deep appreciation for the remarkable work of so many people in the passage of this bill after 5 weeks of consideration.

My personal appreciation goes to all the individuals concerned, especially the tireless staffs who carried the workload for such a long period of time, on both sides of the aisle, both majority and minority staffs, Mr. Gerald Feder, counsel to the Labor Subcommittee, Mr. Donold Elisburg, associate counsel, Mr. Eugene Mittelman, minority counsel to the Labor Committee, and Mr. Dan Moyle, legislative assistant to Senator DOMINICK.

Mr. JAVITS. Mr. President, will the Senator from New Jersey yield?

Mr. WILLIAMS. I yield.

Mr. JAVITS. I should like to express my appreciation for the opportunity to work again in such close cooperation with the distinguished Senator from New Jersey (Mr. WILLIAMS). This was a monumental labor. All of us can look back on it with pride and satisfaction. I believe that it will result in a bill which will be an immeasurable improvement over the present administration of the statute.

Our relations have been excellent. The Senator from New Jersey has given every fiber of his being to the work which was involved, and I think the entire country will appreciate that as the days go by.

I should also like to state my own satisfaction at having gotten over the preliminary difference with the distinguished Senator from Colorado (Mr. DOMINICK). He was most cooperative and pitched in during the final efforts to pass this bill, as he said he would, once his real concern about the method of enforcement had been surmounted.

The staffs who served us, both majority and minority, Mr. Eugene Mittelman, minority counsel to the committee, for me, and Mr. WILLIAMS' assistant, Mr. Gerald Feder, counsel to the subcommittee, now in the Chamber, and Mr. Donald Elisburg, associate counsel, and Mr. Dan Moyle as well as all the other backup people, deserve the highest praise and greatest commendation because they were so much involved in the fashioning of this work. I hope very much that they will derive the same satisfaction that the Senator from New Jersey and I and our other colleagues will derive from final consummation of this bill.

The bill will now go over to the other body. I express every confidence that the other body will send the bill promptly to conference and that we, as the conferees, will be able to bring back a finished product to the Senate very shortly, have it agreed to by the Senate and then sent on the President for his signature. I believe that it will immeasurably improve the economic opportunities for millions of Americans and be a critically important factor in the economic as well as the social stability of the country.

I again express my pleasure at having worked so closely with the chairman of the committee, the Senator from New Jersey (Mr. WILLIAMS).

Mr. WILLIAMS. I appreciate the kind comments of the Senator from New York.

Mr. President, this has been a long and grueling 5 weeks. It has been a worthwhile and rewarding experience, however, and the millions of minorities and women in our country have been well served by the passage of this bill.

Many, many people were involved in this effort and I would like to express my deep appreciation to all of them at this time.

First, to the Senate leadership for bearing with this measure for the 5 weeks of debate and to all the Members of the Senate for their cooperation during the debates and for their action in finally passing the bill.

A special note of personal thanks should go to Senator JAVITS for being a tower of strength to me throughout the consideration of this bill. As always, it has been gratifying to have his continuous support every step of the way. Senator DOMINICK has my appreciation for his diligence and tireless efforts. Even though we had a strong disagreement on certain features of the measure, he certainly assisted us in expediting consideration wherever possible.

Senators ERVIN and ALLEN showed the utmost courtesy during the most difficult days and I appreciate their consideration.

The entire membership of the Labor and Public Welfare Committee was most helpful during consideration of this bill in committee and their diligence helped us in reporting the measure soon after introduction. My special thanks go to Senator TAFT for his cooperation in the committee and for his authorship of the general counsel amendment, Senator SCHWEIKER for his assistance in handling the general counsel amendment on the floor, Senators MONDALE and GAMBRELL for their work on the small business and union legal fees amendment, Senator RANDOLPH for authoring the Sabbath observer amendment, Senator CRANSTON for his efforts on behalf of Federal employees, and Senator CHILES for his efforts on the controversial voluntary services amendment.

Senator HRUSKA has my appreciation for the gentlemanly manner in which he approached the two amendments that he offered, though they were not adopted.

Finally, I must extend my deep personal thanks to the Leadership Conference on Civil Rights and each of its constituent groups. The labor movement is to be commended for its support of our efforts in this and previous civil rights measures, despite the fact that labor unions may be respondents under the law. The women's groups have been a source of exceptional assistance in support of this bill as have the many church and church-related groups.

Most importantly, I must express my special thanks to Clarence Mitchell of the NAACP, without whose efforts over the last 30 years, there would be no such legislation. This bill is a tribute to his efforts over the many years in behalf of all the Nation's minorities.

ANNOUNCEMENT OF POSITION ON VOTE

Mr. GAMBRELL. Mr. President, I was necessarily absent when a record vote was taken on the Allen amendment (Leg. 42) to S. 2515, the Equal Employment Opportunity Commission's bill.

Had I been present on February 14, when a vote on this amendment was taken, I would have voted "yea."

ORDER FOR ADJOURNMENT TO 10 A.M. TOMORROW, THURSDAY, AND FRIDAY OF THIS WEEK

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today and Wednesday and Thursday, it stand in adjournment, respectively, until 10 a.m. tomorrow; 10 a.m. on Thursday, February 24; and 10 a.m. on Friday, February 25, 1972.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESCISION OF ORDER FOR RECOGNITION OF SENATOR RIBICOFF TOMORROW—ORDER FOR RECOGNITION OF SENATOR BYRD OF VIRGINIA TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order previously entered, under which the distinguished Senator from Connecticut (Mr. RIBICOFF) was to be recognized for not to exceed 15 minutes on tomorrow, be vacated, and that the name of the distinguished senior Senator from Virginia (Mr. BYRD) be substituted in lieu thereof for recognition in the same place.

The PRESIDING OFFICER. Without objection, it is so ordered.

DESIGNATION OF WILDERNESS AREA, ARIZONA

Mr. BYRD of West Virginia. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 960.

The PRESIDING OFFICER (Mr. ROTH) laid before the Senate the amendment of the House of Representatives to the bill (S. 960) to designate the Sycamore Canyon Wilderness, Coconino, Kaibab, and Prescott National Forests, State of Arizona, which was to strike out all after the enacting clause, and insert:

That, in accordance with subsection 3(b) of the Wilderness Act of September 3, 1964 (78 Stat. 891), the area classified as the Sycamore Canyon Primitive Area, with the proposed additions thereto and deletions therefrom, as generally depicted on a map entitled "Proposed Sycamore Canyon Wilderness," dated September 30, 1971, which is on file and available for public inspection in the office of the Chief, Forest Service, Department of Agriculture, is hereby designated as the Sycamore Canyon Wilderness within and as a part of the Coconino, Kaibab, and Prescott National Forests, comprising an area of approximately forty-eight thousand five hundred acres.

SEC. 2. As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file a map and a legal description of the Sycamore Canyon Wilderness with the Interior and Insular Affairs Committee of the United States Senate and the House of Representatives, and such description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description and map may be made.

SEC. 3. The Sycamore Canyon Wilderness shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

SEC. 4. The previous classification of the Sycamore Canyon Primitive Area is hereby abolished.

Mr. BYRD of West Virginia. Mr. President, I move that the Senate concur in the amendment of the House.

The motion was agreed to.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. There is no pending business.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent, therefore, that during the remainder of this calendar day, Senators may speak out of order.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. ROTH). The Chair, on behalf of the Vice President, pursuant to Public Law 84–1028, announces the appointment of the following Senators to the Board of Visitors to the U.S. Military Academy: The Senator from Hawaii (Mr. INOUYE); the Senator from Minnesota (Mr. HUMPHREY); the Senator from North Dakota (Mr. YOUNG); and the Senator from Arizona (Mr. GOLDWATER).

The Chair, on behalf of the Vice President, pursuant to Public Law 84–1028, announces the appointment of the following Senators to the Board of Visitors to the U.S. Air Force Academy: The Senator from Rhode Island (Mr. PASTORE); the Senator from Nevada (Mr. CANNON); the Senator from Colorado (Mr. ALLOTT); and the Senator from Alaska (Mr. STEVENS).

The Chair, on behalf of the Vice President, pursuant to Public Law 80–816 appoints the following Senators to the Board of Visitors to the U.S. Naval Academy: The Senator from Washington (Mr. MAGNUSON); the Senator from Virginia (Mr. BYRD); the Senator from Rhode Island (Mr. PELL); and the Senator from Delaware (Mr. BOGGS).

THE NEED FOR A NATIONAL POLICY FOR SCHOOL DESEGREGATION

Mr. SPONG. Mr. President, one of the most pressing domestic problems confronting us concerns our public school system and its future. The confusion resulting from recent court decisions, governmental actions, and pronouncements by public officials is widespread. The problems of busing and school desegregation are nationwide; they affect every part of our country.

I am a cosponsor of a constitutional amendment on school desegregation but am fully aware of the time ratification of an amendment would require and that action probably could not be completed soon enough to provide relief to our school systems for the school year of 1972 or perhaps even 1973. Thus, we must also consider statutory remedies.

I believe Congress and the executive branch should act to devise a national policy for school desegregation which will treat all sections of the country alike and which can be readily understood by all our people. Congress should make an effort to clarify the existing situation in which massive enforced busing which I oppose is required in some parts of our Nation but not others. The executive branch which administers our laws should also act to promote uniformity and orderliness in our policy.

For this reason, I have written a letter to President Nixon expressing the hope that the Congress will act soon to try to bring some order to the disarray in current desegregation efforts and requesting that the Justice Department enter, with amicus curiae briefs, those cases which could lead us toward a national school desegregation policy which will resolve the de facto/de jure distinction.

As a contribution to the dialog which must take place in order for us to devise a rational desegregation plan which will guarantee the constitutional rights of all children to an equal educational opportunity and bring order to our public school system, I have suggested four principles which I believe should serve as our guidelines in formulating a policy. While I do not believe these principles are either perfect or inclusive, I believe they can form a basis for rational discussion and consideration of alternative courses of action.

First, we must have a single, uniform nationwide school desegregation policy, which obliterates once and for all the superficial distinction between de facto and de jure segregation. If it is educationally disadvantageous for a black child to attend an all-black school, then the child in the inner area of Boston or Detroit is just as deprived as the black child in an all-black rural southern school. Furthermore, there is currently more desegregation in the South than in many northern and western areas and it is only natural that southerners should question whether or not they should be asked to bear certain burdens of finance and inconvenience when other parts of the Nation—where the disadvantaged child is receiving less opportunity—are not being asked to bear the same burdens.

Second, we must reevaluate the neighborhood school concept as the basic unit for school assignment purposes, especially for elementary school children. At the same time, however, consideration should be given to utilization of a majority-to-minority transfer provision in which any child in a school where his race is in a majority may transfer to a school in which his race is in a minority.

Third, we must make every effort to remove the inequities which exist both within and among school districts.

Fourth, we must see that local involvement in and local control of public schools remains a significant feature of our school policy.

I have discussed the reasons I believe these principles are valid in my letter to the President. I expect to elaborate on these principles and means of implementing them at a later date. I did, however, want to contribute to the current discussion. Consequently, I ask unanimous consent that my letter to the President be printed in the RECORD.

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

U.S. SENATE,
Washington, D.C., February 17, 1972.

Hon. RICHARD M. NIXON,
President of the United States,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I have concluded from actions taken prior to your departure today for the People's Republic of China that you and your advisors are involved in a re-evaluation of the public school desegregation efforts throughout our country. As a representative of a State which has probably experienced as much litigation involving school desegregation as any other, I am compelled to share my own views with you.

The recent District Court decision in the Richmond, Virginia, school case, the similar cases pending in other parts of our nation, and the numerous pronouncements by our public officials have again brought confusion and misunderstanding to the issue of public school desegregation.

Our people are understandably perplexed and I have a deep sympathy for their feelings.

I appreciate, as I am certain you do, the the fears of some of our citizens who have been subjected to discrimination in the past. I understand their apprehensions that the gains they have made through the *Brown* and certain subsequent decisions and the improved educational opportunity which has

been made available to their children will be lost in a retreat.

I appreciate, as I am certain you do, the fears of parents who are asked to put their children on buses for several hours a day, to send them miles from home, and often to send them to a school which is known to be no better than a school a few blocks from home in terms of facilities and services. It is quite understandable that these parents object to the sacrifices their children are being asked to make. I share their opposition to massive enforced busing to achieve racial balance, because I do not believe it will accomplish its purpose of providing equal educational opportunity.

Also, I appreciate the difficulties faced by local educational officials who find that they must make significant reassignments at the beginning of each school year, that they must constantly be reorganizing and that, in many cases, they must come up with additional sums of money for transportation costs, money which is in scarce supply at this time.

I am aware of the fact that in the past black children were bused past white schools to black ones and that white children were bused past black schools to white ones. That was wrong. But, I do not believe that we can rectify the mistakes of the past by experimenting with the school children of the present. I believe that we must seek to provide excellence in education for all our children. I believe that there are many situations which must be improved, where education needs vast renovations. But, I do not feel that we accomplish much, either for our children or for our nation's future, by pursuing a policy based solely on head counts and ratios.

We refuse to face reality when we refuse to acknowledge the fact that no parent wants a child to be bused far away from home to a school which is no better than a school close to home in terms of facilities, services and educational offerings. We also refuse to face reality if we fail to acknowledge that parents, no matter what their color or economic condition, want the best education possible for their children.

The question then becomes quite simply, "How do we reconcile the desire of a parent for his child to be educated in the neighborhood school with the desire of a parent for his child to receive an education in a school superior to the one closest to his home, a parent who is often economically disadvantaged and of a minority?"

As we have all come to realize, there is no easy answer. Furthermore, the knowledge which we have about busing, racial balance and educational achievement, both cognitive and affective, is at best inconclusive. We have studies on compensatory education, which demonstrate that this approach tends not to succeed. We have the recent reports on the Berkeley experience, where racial balance was undertaken voluntarily, and again find failures.

Professor James Coleman of Johns Hopkins University, in one of the most massive studies, has told us that parental background and the background of the peer group are generally the most influential factors on a child's development. Yet, this does not suggest that racial balancing is necessary. In fact, Dr. Coleman and Dr. Thomas Pettigrew of Harvard University suggested that there is a point at which balancing can produce a "tipping" effect which can be detrimental to educational offerings. Thus, it seems to me premature to determine the future of American education, especially when we are talking about busing, ratios and similar expensive and disruptive procedures, on the little information which we have regarding their effects on educational opportunity.

Consequently, I believe we must look beyond court-imposed solutions. There is no perfect answer, but there are certain principles which should underlie our search for a reasonable and practical solution to the problem of public school desegregation.

First, we must have a single, uniform, nationwide policy on school desegregation, which obliterates the superficial distinction between *de facto* and *de jure* segregation. The statistics developed in the Department of Health, Education and Welfare indicate that there is currently more desegregation in the South than in many parts of the North and West. Problems do remain, but they remain in every part of the nation. If it is educationally disadvantageous for a black child to attend an all-black school, then the black child in a Detroit or Boston inner city area is just as deprived educationally as a child in a black rural Southern school. And, it is meaningless to tell one child that his deprivation is wrong because it was *de jure* and the other that his is right because it is *de facto*. Educationally—and I hope education is our prime consideration—the result is the same. Thus, our goal should be the provision of a better education for every child, no matter what section of the country he lives in.

Secondly, we must reevaluate the neighborhood school concept as the basic unit for school assignment purposes, especially as far as elementary school children are concerned. It is logical in terms of cost, safety and convenience for a parent to want a child in a school near his home. Many parents—black and white—feel that they have paid for that privilege in the purchase of their homes and the payment of taxes. There is every reason to believe that many parents in the future—again both black and white—will seek that same privilege. This, too, is a factor which cannot be ignored. We are told that we cannot change policy because of the desires of people. Frankly, I do not believe the desires of most of our people are based on race and segregation. I believe the large majority of Americans are fair-minded, that they do not want to deprive their fellow citizens of opportunity. But, understandably, parents' first concerns are for their own children—their education, safety and well-being.

We must see that these latter concerns are met or we shall certainly imperil public education. But, we shall also imperil public education if we fail to provide for our educationally deprived. I believe there could be merit in an extensive utilization of a majority-to-minority transfer provision, with the transfers financed by the local or state educational agency. In other words, any child in a school in which his race was in a majority could transfer to a school in which his race was in a minority, with his transportation costs paid by school authorities. The argument often made against this proposal is that the burden is placed upon the deprived child to rectify the inequities which exist. That is, to an extent, true. The child would, however, have the benefit of the transfer provision and an assured right to education in a desegregated environment. In recent years we have witnessed white flight to the suburbs and to private schools. Perhaps we ought now to ask ourselves how far we can follow white flight with the buses and to what extent we can discourage the enrollment in private schools. Is racial balancing and social engineering to the extent being contemplated in some areas, racial balancing and social engineering whose redeeming benefits are questionable, worth the possibility that our public school system may be deprived of even more advantaged students and of the degree of support needed to sustain public education? On the other hand, can we stop in mid-stream or stray backward? In both cases I would hope not.

Thirdly, in addition to reviewing our policy on the neighborhood school and majority-to-minority transfers, it is important to make every effort to remove the inequities which currently exist both within school districts and among them. There are, for example, currently differences in facilities, services offered, libraries, the numbers of specially-trained teachers, to name only a few. We must move once and for all to eliminate these disparities. And in doing so, we should remember that the disparities between urban and suburban school districts are generally exceeded by those between rural and urban/suburban districts.

Finally, it is highly important for us to deal with a situation you discussed in the State of the Union Message: the control of our school systems. The frustrations of our people who find themselves ordered by courts which are not responsible to them is certainly understandable. The seeming inability of elected representatives to act is another. We must take steps and take them immediately to see that local officials, officials responsible to an electorate, control and administer our schools. We have heard this from both the black and white communities. The calls for decentralization and community control of schools have been widespread. Certainly, there are pitfalls in these procedures, pitfalls against which we must guard, but representative government and responsibility and accountability of public servants to those they serve are a significant part of the American heritage.

Thus, local involvement and local control of public schools must be a significant feature of public school policy.

The situation is, of course, complex. The proposals I have discussed are neither inclusive nor perfect. They have been attacked by those on the right and those on the left. This in itself, however, is probably evidence of their redeeming qualities.

In Senate floor speeches of July 20 and August 3, 1970, I tried to outline the conflicting court opinions and governmental actions which were resulting in confusion throughout our land. As a member of the Senate Select Committee on Equal Educational Opportunity, I have participated extensively in hearings on our school problems and have questioned several members of your Administration, including former Attorney General John Mitchell and former head of the Justice Department's Civil Rights Division, Jerris Leonard, regarding the issues which today confront us. Based on this, I introduced in the Senate on August 3, 1970, a bill which I felt sought a rational, moderate approach to our problems. This bill was drafted by Professor Alexander Bickel of the Yale University Law School and Congressman Richardson Preyer of North Carolina. Hearings on this legislation were held before the Senate Education Subcommittee and the Senate Select Committee on Equal Educational Opportunity. The bill was attacked by the NAACP as well as by those in basic disagreement with the *Brown* decision. Despite the fact that the bill remained in Committee, there was excellent testimony by school officials from both Norfolk and Richmond, Virginia. I commend this testimony to you.

In my judgment, the decision in the Charlotte-Mecklenberg case, when coupled with that in the Mobile case, negated much of the thrust of the Bickel-Preyer proposals. Consequently, I joined in cosponsoring a Constitutional amendment regarding this as the best available vehicle for provoking a public discussion of the need for a single, uniform, national school desegregation policy that all can understand—a policy that would end the present double standard of hypocrisy which prevails in our nation today.

The unanimity of the Charlotte-Mecklenberg decision suggests that the opinion in that case represents consensus. The uncertainty of that consensus was, however, illustrated by statements made by Chief Justice Burger soon after the decision that appeared at odds with the findings of his own court. Despite the fact that nearly 20 years

have passed since *Brown*, the Supreme Court continues to give maximum discretion to district judges and minimum guidance.

In addition to the principles I discussed earlier, which I believe should underlie our search for a solution, I would like to make several specific suggestions. On August 13, 1970, when the Attorney General appeared before the Select Committee on Equal Educational Opportunity, he indicated a hope—a hope which I shared—that the Charlotte-Mecklenburg decision would answer many of the unanswered questions regarding public school desegregation. (Hearings before the Senate Select Committee on Equal Educational Opportunity, August 13, 1970, p. 1912.) Many of the questions were not answered and the Court has thus far avoided setting the *de facto/de jure* matter. Now, in the Richmond case, we have a new enforcement procedure, a procedure for which the Attorney General, also on August 13, 1970, in response to my questions, indicated there was no legal precedent. (Hearings referred to above, p. 1910.) Consequently, I would like to suggest and request that the Department of Justice enter, with amicus curiae briefs, those cases where it would be appropriate and where there is evidence that such action would contribute to the determination of a national school desegregation policy.

As you know, the Fourth Circuit Court of Appeals has granted a stay in the Richmond school case, pending appeal. In my judgment implementation of the order should be stayed until a *final* decision is rendered by the Supreme Court. It seems somewhat contradictory to find the federal government questioning the expansion of municipalities for racial reasons and at the same time ordering consolidation of political subdivisions for racial reasons.

The recommendations above are not intended to imply that Congress should be absolved of responsibility for this issue. In fact, I have stated on a number of occasions that Congress should act to clarify the existing situation, and I am pleased that both the Majority Leader and the Minority Leader of the Senate sought to contribute to the dialogue over possible courses of action during a Senate floor discussion on yesterday. Congress does have a responsibility to give consideration to all measures before it which are designed to bring clarification and rationality to efforts to resolve this pressing domestic problem. That responsibility should not be avoided because this is an election year.

Aside from the compulsory features of the recent decisions which threaten to undermine public education, there are equal rights involved which Americans will not long see abused. Parents black and white in Virginia's major cities might well ask why their private resources should go for bus fares and why their tax monies should go for the purchase of school buses when metropolitan areas throughout much of America are not burdened with this same cost and yet where black children are receiving less opportunity.

I have not always been proud of Virginia's past history with regard to education of minority pupils. I am, however, proud of the restaint most Virginians have displayed despite providing the proving ground for every new approach to a solution to the complex problem of meeting the Constitutional rights of all children to an equal educational opportunity. The traditional respect of Virginians for the law and the common sense of our people has thus far always prevailed over the appeals of demagogues, the militant and the racist. However, it is difficult for people to comply with an interpretation of the law that they neither understand nor believe will achieve its stated purpose.

In view of the fact that several members of your cabinet and staff are involved with the matters discussed in this letter, I am taking the liberty of forwarding copies of this letter to them. I expect to reiterate and elaborate on a number of the principles I have discussed here in the report of the Senate Select Committee on Equal Educational Opportunity, on which I serve. Since you and your advisors are currently contemplating action in the field of school desegregation, I did, however, want to write to you at this time.

Sincerely,

WILLIAM B. SPONG, Jr.

QUORUM CALL

Mr. SPONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SHIPMENT OF F–4 AIRCRAFT TO ISRAEL—INDEFINITE POSTPONEMENT OF SENATE RESOLUTION 177

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that Calendar No. 397, Senate Resolution 177, a resolution calling for the shipment of Phantom F–4 aircraft to Israel in order to maintain the arms balance in the Middle East, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the message from the House on S. 659 is brought before the Senate, the committee amendment to the House amendment to S. 659 be open to amendment in two further degrees; that debate on all amendments be limited to 2 hours, the time to be equally controlled and divided between the mover of the amendment and the manager of the bill, except that when the manager of the bill favors the amendment, the time in opposition shall be controlled by whomever the majority leader designates; furthermore, that time on any appeal, point of order, or motion, except a motion to table, shall be limited to one-half hour, the time to be similarly divided and controlled as described above; further, that third reading shall occur not later than 2 p.m. on Wednesday, March 1, 1972; that at 2 p.m., Wednesday, March 1, 1972, the first vote on the motion to concur in the House amendment to S. 659 with an amendment shall take place; and, further, that rule XII be waived.

Mr. President, on advice of counsel, I ask that the words "third reading" be stricken.

Mr. ALLEN. Mr. President, reserving the right to object, I did not quite get the last two phrases about the committee substitute.

Mr. MANSFIELD. Further, that the vote shall occur not later than 2 p.m. on Wednesday, March 1, 1972, and that at 2 p.m. on Wednesday, March 1, 1972, the final vote on the motion to concur in the House amendment to S. 659 with an amendment shall take place; and, further, that rule XII be waived.

Mr. ALLEN. How would we know that that was the motion before the Senate, that the motion to concur be voted on? That might have been voted down before that time, and another issue might be before the Senate. How would that preserve the identity and the priority of this motion to concur?

Mr. MANSFIELD. The final vote on the motion in the House amendment—strike out "to concur." The final vote on the motion in the House amendment——

Mr. ALLEN. That prejudges what the parliamentary situation will be at that time.

Mr. MANSFIELD. It is my understanding that this amendment is amendable and that this is the best way that we could face up to the agreement.

Mr. ALLEN. Why would we need the last phrase? Why would not the parliamentary situation take care of itself, if the time is set for a vote on whatever is pending before the Senate, not any motion to concur?

Mr. MANSFIELD. All right.

The PRESIDING OFFICER. The question before the Senate will be on concurrence in the House amendment with an amendment, whatever it is.

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

Mr. MANSFIELD. Will the Chair allow me a moment?

Mr. ALLEN. Why would it not be the best to say, "voting on the pending question"?

Mr. MANSFIELD. Further that final disposition shall occur not later than 2 p.m. on Wednesday, March 1, 1972; and, further, that rule XII shall be waived——

Mr. JAVITS. Mr. President, will the Senator from Montana yield to me?

The PRESIDING OFFICER (Mr. ROTH). The Chair would advise the Senator from Montana that rule XII does not need to be waived, under the circumstances.

Mr. MANSFIELD. Rule XII cannot be waived?

The PRESIDING OFFICER. Does not have to be waived.

Mr. MANSFIELD. Does not have to be waived. All right. Then we will scratch that.

Mr. JAVITS. Mr. President, I think the words "final disposition" are well chosen and deal with all questions because it is our understanding that there may be, beginning at 2 p.m., a vote or votes. It may not be one. It may be more than one, beginning at 2 o'clock, and that will represent the final disposition of this measure before it is finally acted on by the Senate. When that voting is completed, when it begins at 2 p.m., the measure will have been finally acted on by the Senate. That is, as

I understand it, the purpose of the unanimous-consent request. Therefore, the use of the words "final disposition," it seems to me, covers exactly what the majority leader has in mind and deals with all contingencies.

Mr. MANSFIELD. We could agree further to the vote on final disposition but I think it is understood.

Mr. BYRD of West Virginia. Mr. President, does not final disposition mean the vote on the House amendment as amended by the Senate committee substitute, as amended, if amended?

Mr. ALLEN. The committee substitute might be tabled by that time. It might not be before the Senate. I think "pending question" would be the way to do it.

Mr. BYRD of West Virginia. Mr. President, does not final disposition really mean the vote to concur in the House amendment—in the nature of a substitute for S. 659—with an amendment in the nature of a substitute, as amended, if amended? [Laughter.]

Mr. MANSFIELD. It is kind of like that. [More laughter.]

Mr. ALLEN. But would it then be final disposition if it has to go back to the House before action? That would not be final disposition.

Mr. JAVITS. It would be final disposition by the Senate. That is all I said. If we commence voting at 2 p.m. on Wednesday and take one or more votes, whatever number is required by the parliamentary situation leading to final disposition on the measure by the Senate, that would take care of everyone's contingency. Whatever votes are required will be taken beginning at 2 p.m., whatever is the given parliamentary situation at that time leading to final disposition by the Senate.

The PRESIDING OFFICER. The Senator from New York means not later than the designated hour.

Mr. JAVITS. Exactly, Mr. President.

Mr. ALLEN. That would rule out any amendments after the reaching of that time.

Mr. JAVITS. That is correct. That is finality.

Mr. ALLEN. I do not see why we have to agree at this time to what the nature of the pending question is to be. That is the point, because that might not be the pending question.

Mr. JAVITS. The pending question might be a vote on the committee amendment. We would not want to abort our proceedings by ending at that point. The distinguished Senator from Michigan (Mr. GRIFFIN), for instance, suggested that at 2 p.m., when we begin voting, whatever series of votes are required, there may be amendments that are to be voted on up or down, so that they will be voted on, as that is what we do all the time, but we know that at the beginning of 2 p.m. on Wednesday, we deal with whatever number of votes are required to lead to final disposition by the Senate. It seems to me, in that way, that everyone's rights are protected. We know it is finality but we do not try to guess what the parliamentary situation will be.

Mr. ALLEN. That is the point that the junior Senator from Alabama is raising, that we should not seek to state what measure will be pending before the Senate at that time.

Mr. MANSFIELD. That is what I am intending to do. The Senator from Alabama may rest assured, as I am sure he is fully aware, that every Senator's rights will be protected.

Mr. ALLEN. How does the agreement read, then, after the time for final voting has been reached?

Mr. MANSFIELD. Except a motion to table, it shall be limited to one-half hour, the time to be similarly divided and controlled as described above; and, further, that final disposition shall occur no later than 2 p.m., Wednesday March 1, 1972.

Mr. ALLEN. That leaves out the reference to acting on the committee amendments, then?

Mr. MANSFIELD. That is right.

Mr. ALLEN. Very well.

Mr. MANSFIELD. It leaves it out and waives rule XII.

Mr. ALLEN. I withdraw my objection.

Mr. GRIFFIN. Will the distinguished majority leader reread that portion which relates to time on the amendments?

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the message from the House on S. 659 be brought before the Senate, the committee amendment to the House amendment to S. 659 be open to amendment in two further degrees, and that debate on all amendments be limited to 2 hours——

Mr. GRIFFIN. If the majority leader will yield there, the intent is clear as to what he wants, but since we have had some problems, it could be misunderstood to indicate that debate on all amendments would be limited to 2 hours, period.

What the majority leader is seeking to do is to make it clear that there are 2 hours on each amendment; is that not correct?

Mr. MANSFIELD. Two hours on each amendment. That would include amendments in the second degree.

Mr. GRIFFIN. Right.

Mr. MANSFIELD. That is correct.

The PRESIDING OFFICER (Mr. ROTH). Is there objection to the unanimous-consent request of the Senator from Montana? The Chair hears none, and it is so ordered.

EDUCATION AMENDMENTS OF 1972

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 659.

The PRESIDING OFFICER (Mr. ROTH) laid before the Senate the amendment of the House of Representatives to the bill (S. 659) to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, the General Education Provisions Act (creating a National Foundation for Postsecondary Education and a National Institute of Education), the Elementary and Secondary Education Act of 1965, Public Law 874, 81st Congress, and related acts, and for other purposes, which was to strike out all after the enacting clause, and insert:

That this Act may be cited as the "Higher Education Act of 1971".

TITLE I—EXTENSION OF COMMUNITY SERVICE AND CONTINUING EDUCATION PROGRAMS

SEC. 101. Section 101 of the Higher Education Act of 1965 is amended by striking out "and" after "1970," and by inserting after "June 30, 1971" the following: ", and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976".

TITLE II—EXTENSION AND AMENDMENT OF PROGRAMS OF COLLEGE LIBRARY ASSISTANCE AND LIBRARY TRAINING AND RESEARCH

SEC. 201. (a) Section 201 of the Higher Education Act of 1965 is amended by striking out "and" and after "1970," and inserting after "1971," the following: "and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976,".

(b) Section 202 of such Act is amended by inserting before the period at the end of the first sentence ", and other public and private nonprofit library institutions whose primary function is to provide library and information services in institutions of higher education on a formal, cooperative basis".

(c) Section 202(a) of such Act is amended by inserting before "and (2)" the following: "except that under special and unusual circumstances the Commissioner is authorized to waive his requirement,".

(d) Section 202(b) of such Act is amended by inserting immediately preceding the semicolon at the end thereof the following: ", except that under special and unusual circumstances the Commissioner is authorized to waive this requirement".

(e) Section 203(a) of such Act is amended by striking out "$10" and inserting in lieu thereof "$20".

(f) Section 204(a)(2) of such Act is amended by striking out "and" immediately preceding "(C)", and inserting before the period at the end of the first sentence the following: ", and (D) to other public and private nonprofit library institutions which provide library and information services to institutions of higher education on a formal, cooperative basis".

(g) Section 221 of such Act is amended to read as follows:

"APPROPRIATIONS AUTHORIZED

"SEC. 221. Only for the purpose of carrying out training programs under this part, there are authorized to be appropriated such sums as may be necessary for the fiscal year 1972 and each succeeding fiscal year ending prior to July 1, 1976. In addition only for the purpose of carrying out research and demonstration programs under this part, there are authorized to be appropriated $5,000,000 for the fiscal year 1972, $10,000,000 for the fiscal year 1973, $20,000,000 for the fiscal year 1974, $35,000,000 for the fiscal year 1975, and $40,000,000 for the fiscal year 1976."

(h) Subsection (a) of section 223 of such Act is amended by striking out the period at the end of the subsection and inserting: ": *Provided, however,* That in any fiscal year not less than 50 percent of the grants made under this subsection shall be for the purpose of establishing and maintaining fellowships or traineeships under clause (2)."

(i) Subsection (b) of section 223 of such Act is amended by inserting after "institution of higher education" the following: "and other library and educational organizations or agencies".

(j)(1) Section 231 of such Act is amended by striking out "and" after "1969," and inserting before "to enable the Commissioner" the following: "and $9,000,000 for the fiscal year 1972, and each succeeding fiscal year ending prior to July 1, 1976,".

(2) Effective on the date of enactment of this Act, part C of the Higher Education Act of 1965 is further amended by adding at the end thereof the following new section:

"EVALUATION AND REPORT

"SEC. 232. No later than March 31 of each calendar year the Librarian of the Congress shall transmit to the respective committees of the Congress having legislative jurisdiction over this part and to the respective Committees on Appropriations of the Congress a report evaluating the results and effectiveness of acquisition and cataloging work done under this part, based to the maximum extent practicable on objective measurements, including costs, together with recommendations as to proposed legislative action."

TITLE III—EXTENSION OF PROGRAMS TO STRENGTHEN DEVELOPING INSTITUTIONS

SEC. 301. Section 301(b)(1) of the Higher Education Act of 1965 is amended by striking out "and" after "1970," and by inserting after "June 30, 1971," the following: "and the sum of $120,000,000 for the fiscal year 1972 and each succeeding fiscal year ending prior to July 1, 1976,".

AMENDMENT OF PROVISIONS RELATING TO DEVELOPING

SEC. 302. (a) Section 306 of the Higher Education Act of 1965 is amended by striking out "(other than developing institutions)".

(b) Section 304(c) of such Act is amended by adding at the end thereof the following new sentence: "None of the funds appropriated pursuant to section 301(b)(1) shall be used for a school or department of divinity or for any religious worship or sectarian instruction."

TITLE IV—STUDENT ASSISTANCE

PART A—AMENDMENT AND EXTENSION OF EDUCATIONAL OPPORTUNITY GRANT PROGRAM

SEC. 401. So much of part A of title IV of the Higher Education Act of 1965 as precedes section 408 is amended to read as follows:

"PART A—EDUCATIONAL OPPORTUNITY GRANTS

"STATEMENT OF PURPOSE AND APPROPRIATIONS AUTHORIZED

"SEC. 401. (a) It is the purpose of this part to provide, through institutions of higher education, educational opportunity grants to assist in making available the benefits of higher education to qualified high school graduates of exceptional financial need, who for lack of financial means would be unable to obtain such benefits without such aid.

"(b) There are hereby authorized to be appropriated $295,000,000 for the fiscal year 1972 and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976, to enable the Commissioner to make payments to institutions of higher education that have agreements with him entered into under section 407, for use by such institutions for payments to undergraduate students for educational opportunity grants under this part. Sums appropriated pursuant to this subsection for any fiscal year shall be available for payment to institutions until the close of the fiscal year succeeding the fiscal year for which they were appropriated.

"DETERMINATION OF AMOUNT OF EDUCATIONAL OPPORTUNITY GRANTS

"SEC. 402. From the funds received by it for such purpose under this part, an institution which awards an educational opportunity grant to a student for an academic year under this part shall, for such year, pay to that student the amount determined by the institution for such student for that year, which amount shall not exceed the lesser of $1,500 or one-half of the sum of the amount of student financial aid (including assistance under this title) provided such student by such institution and any assistance provided such student under any scholarship program established by a State or a private institution or organization, as determined in accordance with regulations of the Commissioner, except that no student shall be paid during all the academic years he is pursuing his undergraduate course of study at one or more institutions of higher education in excess of $4,000, or $5,000 in the case referred to in the second sentence of section 403. The Commissioner shall, subject to the other limitations in this part, prescribe basic criteria or schedules (or both) for the determination of the amount of educational opportunity grants, taking into account the objective of limiting grant aid under this part to students of exceptional financial need who but for such aid would be unable to obtain the benefits of higher education, but such criteria or schedules shall not disqualify an applicant on account of his earned income if income from other sources in the amount of such earned income would not disqualify him. An individual who has, in years prior to the effective date of the Higher Education Act of 1971, been awarded an educational opportunity grant pursuant to this part shall continue to be eligible to receive a grant in accordance with the requirements of this part as in effect at the time of the initial grant.

"DURATION OF PERIOD OF ELIGIBILITY FOR EDUCATIONAL OPPORTUNITY GRANTS

"SEC. 403. A student eligible therefor may be awarded an educational opportunity grant under this part for each academic year of the period required for completion by the recipient of his undergraduate course of study at the institution of higher education from which he received the educational opportunity grant, except that such period shall not exceed four academic years. The eligibility of a student for an educational opportunity grant may, in accordance with regulations of the Commissioner, be extended for up to an additional academic year where five academic years is the normal period needed to complete the course of study the student is pursuing, or where the student, because of his particular circumstances, is determined by the institution to need an additional year to complete a course of study normally requiring four academic years.

"SELECTION OF RECIPIENTS OF EDUCATIONAL OPPORTUNITY GRANTS

"SEC. 404. (a) An individual shall be eligible for the award of an educational opportunity grant under this part at any institution of higher education which has made an agreement with the Commissioner pursuant to section 407 (which institution is hereinafter in this part referred to as an 'eligible institution'), if the individual makes application at the time and in the manner prescribed by that institution.

"(b) From among those eligible for educational opportunity grants from an institution of higher education for each fiscal year, the institution shall, in accordance with the provisions of its agreement with the Commissioner under section 407 and within the amount allocated to the institution for that purpose for that year under section 406, select individuals who are to be awarded such grants and determine, pursuant to section 402, the amounts to be paid to them. An institution shall not award an educational opportunity grant to an individual unless it determines that—

"(1) he has been accepted for enrollment as a student at such institution on at least a half-time basis or, in the case of a student already attending such institution, is in good standing and in attendance there on at least a half-time basis as an undergraduate student;

"(2) he shows evidence of academic or creative promise and capability of maintaining good standing in his course of study; and

"(3) he is of exceptional financial need and would not, but for an educational opportunity grant, be financially able to pursue a course of study at such institution of higher education. In determining financial need, expected family contributions shall be considered to be the contribution expected in the specific circumstances of the applicant, as determined by the student financial aid officer. Any calculation of the ability of a family to contribute shall include consideration of (A) family assets, (B) value of any social welfare services provided to the family by public or private agencies, (C) number of children in the family, (D) number of children attending institutions of higher education, (E) any catastrophic illnesses in the family, (F) business failures, (G) educational expenses of other dependent children in the family, and (H) other circumstances affecting the student's financial need.

"ALLOTMENT OF EDUCATIONAL OPPORTUNITY GRANT FUNDS AMONG STATES

"SEC. 405. The Commissioner shall allot funds appropriated pursuant to section 401 among the States in accordance with section 465.

"ALLOCATION OF ALLOTTED FUNDS TO INSTITUTIONS

"SEC. 406. (a) The Commissioner shall from time to time set dates by which eligible institutions in any State must file applications for allocation, to such institutions, of educational opportunity grant funds from the allotment to that State (including any reallotment thereto) for any fiscal year in accordance with section 465(a), to be used for the purposes specified in the first sentence of section 401(b). Such allocations shall be made in accordance with criteria which the Commissioner shall establish and which shall be designed to achieve such distribution of such funds among eligible institutions within a State as will most effectively carry out the purposes of this part.

"(b) Payment shall be made from allocations under this section to institutions as needed.

"AGREEMENTS WITH INSTITUTIONS—CONDITIONS

"SEC. 407. An institution of higher education which desires to obtain funds for educational opportunity grants under this part shall enter into an agreement with the Commissioner. Such agreement shall—

"(1) provide that funds received by the institution under this part will be used by it only for the purposes specified in, and in accordance with, the provisions of this part;

"(2) provide that in determining whether an individual meets the requirements of section 404(b)(3) the institution will consider such individual's income, including as a part thereof any expected contribution from parents or others upon whom the student may rely for support, except that there shall be deemed to be no expected contribution from the parents of a veteran (as that term is defined in section 101(2) of title 38, United States Code);

"(3) provide that the institution, in cooperation with other institutions of higher education where appropriate, will make vigorous efforts to identify qualified youths of exceptional financial need and to encourage them to continue their education beyond secondary school through programs and activities such as—

"(A) establishing or strengthening close working relationships with secondary-school principals and guidance and counseling personnel with a view toward motivating students to complete secondary school and pursue post-secondary-school educational opportunities, and

"(B) making, to the extent feasible, conditional commitments for educational opportunity grants to qualified secondary school students, who but for such grants would be unable to obtain the benefits of higher education, with special emphasis on students enrolled in grade 11 or lower grades who show evidence of academic or creative promise;

"(4) provide assurance that the institution will continue to spend in its own scholarship and student-aid program, from sources other than funds received under this

part, not less than the average expenditure per year made for that purpose during the most recent period of three fiscal years preceding the effective date of the agreement;

"(5) include provisions designed to make educational opportunity grants under this part reasonably available (to the extent of available funds) to all eligible students in the institution in need thereof; and

"(6) include such other provisions as may be necessary to protect the financial interest of the United States and promote the purposes of this part."

PROGRAM CONSOLIDATIONS

SEC. 402. Section 408 of the Higher Education Act of 1965 is amended to read as follows:

"IDENTIFYING QUALIFIED LOW-INCOME STUDENTS; PREPARING THEM FOR POSTSECONDARY EDUCATION; SPECIAL SERVICES FOR SUCH STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION

"SEC. 408. (a) To assist in achieving the objectives of this section the Commissioner is authorized, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), to make grants to, or contracts with, institutions of higher education, including institutions of vocational and career education programs, combinations of such institutions, public or private agencies or organizations (including professional or scholarly associations), or in exceptional cases secondary schools or secondary vocational schools, for planning, developing, or carrying out within the States one or more of the services described in subsection (c), except that no grant may be made to an agency, organization, institution, or school other than a public or nonprofit private one.

"(b) Such services shall be designed to enable youths from low-income backgrounds who have academic potential (but may lack adequate secondary school preparation or be physically handicapped) to enter, continue, or resume a program of postsecondary education.

"(c) Such services are—

"(1) publicizing existing forms of student financial aid;

"(2) identifying youths described in subsection (b) and encouraging them to complete secondary school and to undertake postsecondary education;

"(3) encouraging youths described in subsection (b) who have dropped out of secondary school or college to reenter educational programs, including programs of postsecondary education;

"(4) generating skills and motivation necessary for success in education beyond high school;

"(5) providing counseling, tutorial, or other educational services, including special summer programs, to remedy academic deficiencies;

"(6) providing career guidance, placement, or other student personnel services (including health services);

"(7) identifying, encouraging, and counseling students with a view to their undertaking a program of graduate or professional education; and

"(8) providing other special or supplemental services necessary to achieve the purposes set forth in subsection (b).

"(d) Enrollees who are participating on an essentially full-time basis in one or more services being provided under subsection (c) may be paid stipends, but not in excess of $30 per month except in exceptional cases as determined by the Commissioner.

"(e) There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal year 1972, and each succeeding fiscal year ending prior to July 1, 1976."

INCLUSION OF PROPRIETARY INSTITUTIONS

SEC. 403. Effective July 1, 1973, section 409 of the Higher Education Act of 1965 is amended to read as follows:

"DEFINITIONS

"SEC. 409. For the purposes of this part (other than section 408)—

"(1) The term 'academic year' means an academic year or its equivalent, as defined in regulations of the Commissioner.

"(2) The term 'institution of higher education' includes a proprietary institution of higher education (as defined in section 461 of this Act)."

PART B—EXTENSION AND AMENDMENT OF STUDENT LOAN INSURANCE PROGRAM

EXTENSION OF STUDENT LOAN INSURANCE PROGRAM

SEC. 411. (a) The first sentence of section 424(a) of the Higher Education Act of 1965 is amended to read as follows: "The total principal amount of new loans made and installments paid pursuant to lines of credit (as defined in section 435) to students covered by Federal loan insurance under this part shall not exceed $1,600,000,000 for the fiscal year 1972, $1,800,000,000 for the fiscal year 1973, $2,000,000,000 for the fiscal year 1974, $2,200,000,000 for the fiscal year 1975, and $2,400,000,000 for the fiscal year 1976."

(b) The second sentence of such section 424(a) is amended by striking out "1975" and inserting "1980".

(c) Section 428(a)(4) of such Act is amended by striking out "1971" and inserting "1976" and by striking out "1975" and inserting "1980".

(d) Section 433(c) of such Act is amended by striking out "for the fiscal year ending June 30, 1969, and for each of of the two succeeding fiscal years" and inserting "for each fiscal year ending prior to July 1, 1976".

EXTENSION OF AUTHORITY FOR PAYING SPECIAL ALLOWANCES ON INSURED STUDENT LOANS

SEC. 412. Paragraph (7) of section 2(a) of the Emergency Insured Student Loan Act of 1969 (Public Law 91-95) is amended by striking out "1971" and inserting "1976".

AMENDMENTS TO INTEREST SUBSIDY PROVISIONS

SEC. 413. (a) Paragraph (1) of subsection (a) of section 428 of the Higher Education Act of 1965 is amended to read as follows:

"(1) Each student who has received a loan for study at an eligible institution—

"(A) which is insured by the Commissioner under this part;

"(B) which was made under a State student loan program (meeting criteria prescribed by the Commissioner), and which was contracted for, and paid to the student, within the period specified by paragraph (4); or

"(C) which is insured under a program of a State or of a nonprofit private institution or organization which was contracted for, and paid to the student, within the period specified in paragraph (4), and which—

"(i) in the case of a loan insured prior to July 1, 1967, was made by an eligible lender and is insured under a program which meets the requirements of subparagraph (E) of subsection (b)(1) and provides that repayment of such loan shall be in installments beginning not earlier than sixty days after the student ceases to pursue a course of study (as described in subparagraph (D) of subsection (b)(1) at an eligible institution, or

"(ii) in the case of a loan insured after June 30, 1967, is insured under a program covered by an agreement made pursuant to subsection (b),

and who has been determined by the eligible institution to be in need of the entire amount of such loan, after consideration of expected family contributions, in order to pursue a course of study at such eligible institution and has provided the lender with a statement evidencing such determination and stating the amount of the loan of which such student is in need, shall be entitled to have paid on his behalf and for his account to the holder of the loan, a portion of the interest on the loan. Such determination of need shall be made, and such statement be furnished, by the eligible institution, except that, in the case of eligible institutions located outside the United States, such determination shall be made, and such statement furnished, in such manner as the Commissioner may prescribe. In addition, the Commissioner shall pay an administrative cost allowance in the amount established by paragraph (2)(B) of this subsection with respect to loans to any student without regard to the borrower's need. In the absence of fraud by the lender, such determination of the need of a student under this paragraph shall be final insofar as it concerns the obligation of the Commissioner to pay the holder of a loan a portion of the interest on the loan."

(b) Section 428(b)(1)(H) of such Act is amended to read as follows:

"(H) provides that the benefits of the loan insurance program will not be denied any student because of his family income or lack of need if the institution has furnished the lender with a statement under paragraph (1) of subsection (a) of this section that the student needs a loan in the amount determined pursuant to such paragraph to pursue his course of study at that institution, except in the case of loans made by an instrumentality of a State or eligible institution;".

INSURANCE LIABILITY

SEC. 414. (a) Section 425(b) of the Higher Education Act of 1965 is amended to read as follows:

"(b) The insurance liability on any loan insured by the Commissioner under this part shall be 100 per centum of the unpaid balance of the principal amount of the loan, plus interest. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under the provisions of section 430 or 437 of this part."

(b) Section 427(a)(2)(D) of such Act is amended by striking out the following: "(but without thereby increasing the insurance liability under this part)".

(c) The last sentence of section 430(a) of such Act is amended by striking out "of the loan (other than interest added to principal)" and inserting in lieu thereof the following: "and interest".

INCREASE IN LOAN CEILINGS

SEC. 415. (a) Subsection (a) of section 425 of the Higher Education Act of 1965 is amended (1) by striking out "$1,500" and inserting in lieu thereof the following: "$2,500, except in cases where the Commissioner determines, pursuant to regulations prescribed by him, that a higher amount is warranted in order to carry out the purposes of this part with respect to students engaged in specialized training requiring exceptionally high costs of education" and (2) by striking out "$7,500" and inserting "$10,000".

(b) Clause (A) of section 428(b)(1) of such Act is amended (1) by striking out "$1,500" and inserting in lieu thereof the following: "$2,500 (except in those cases where the Commissioner determines, pursuant to regulations prescribed by him, that a higher amount is warranted in order to carry out the purposes of this part with respect to students engaged in specialized training requiring exceptionally high costs of education)" and (2) by striking out "$7,500" and inserting "$10,000".

INCLUSION OF PART-TIME STUDENTS IN LOAN PROGRAMS

"SEC. 416. Section 427(a)(1) of the Higher Education Act of 1965 is amended by striking out everything after "who (A)" down through "and (C)" and inserting in lieu thereof the following: "has been accepted for enrollment at an eligible institution on a full time or on a part-time basis or, in the case of a student already attending such institution, is in good standing there as determined by the institution on a full time or on a part-time basis, and (B)"

ALLOWANCES TO INSTITUTIONS FOR THEIR COSTS IN CONNECTION WITH THE INSURED STUDENT LOAN PROGRAM

SEC. 417. Section 428 of the Higher Education Act of 1965 is amended by adding at the end thereof the following:

"(f) The Commissioner may pay to each eligible institution an allowance for each fiscal year which may not exceed 1 per centum of the amount of loans made to students at that institution for that year which are insured (1) by the Commissioner under this part or (2) by a State or nonprofit private loan insurance program (covered at the time the loan was made by an agreement under section 428(b))."

TECHNICAL AMENDMENTS

SEC. 418. (a) Section 437 of such Act is amended to read as follows:

"REPAYMENT BY THE COMMISSIONER OF LOANS OF DECEASED OR DISABLED BORROWERS

"SEC. 437. If a student borrower who has received a loan described in clause (A), (B), or (C) of section 428(a)(1) dies or becomes permanently and totally disabled (as determined in accordance with regulations of the Commissioner), then the Commissioner shall discharge the borrower's liability on the loan by repaying the amount owed on the loan."

(b) Paragraph (1) of section 428(b) is amended (1) by striking out "and" at the end of clause (J) thereof, (2) by striking out the period at the end of clause (K) and inserting "; and" in lieu thereof, and (3) by adding at the end of such paragraph the following new clause:

"(L) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid during any period (i) during which the borrower is pursuing a full-time course of study at an eligible institution, (ii) not in excess of three years during which the borrower is a member of the Armed Forces of the United States, (iii) not in excess of three years during which the borrower is in service as a volunteer under the Peace Corps Act, or (iv) not in excess of three years during which the borrower is in service as a full-time volunteer under title VII of the Economic Opportunity Act of 1964."

(c) Section 428(e) of such Act is repealed.

(d) Paragraph (1) of subsection (c) of such section 428 is amended by striking out "adjusted family income of the borrower" and inserting in lieu thereof "the borrower's lack of need".

(e) Section 434 of such Act is amended by striking out "up to 15 per centum of their assets,".

(f) Section 435(a) of such Act is amended by inserting at the end thereof the following: "Notwithstanding any other provision of this part, whenever the Commissioner determines that it is necessary in order to carry out the purposes of this part and after affording an opportunity for a hearing, he is authorized to suspend, limit, or terminate eligibility under this part for any single otherwise eligible institution."

SAVINGS PROVISION

SEC. 419. The amendments made by this part shall not be effective with respect to any loan made after the date of enactment of this Act, in whole or in part, to consolidate or convert a loan made or contracted for prior to its effective date.

PART C—EXTENSION AND AMENDMENT OF THE WORK-STUDY PROGRAM

STATEMENT OF PURPOSE

SEC. 421. Section 441(a) of the Higher Education Act of 1965 is amended by striking out "from low-income families" and inserting in lieu thereof "with great financial need".

APPROPRIATIONS AUTHORIZATION

SEC. 422. Section 441(b) of the Higher Education Act of 1965 is amended to read as follows:

"(b) There are authorized to be appropriated $330,000,000 for the fiscal year 1972, $360,000,000 for the fiscal year 1973, $390,000,000 for the fiscal year 1974, $420,000,000 for the fiscal year 1975, and $450,000,000 for the fiscal year 1976 to carry out this part (other than section 447)."

REVISION OF STATE ALLOTMENT FORMULA

SEC. 423. Section 442 of the Higher Education Act of 1965 is amended by redesignating subsection (e) as subsection (b), and by striking out subsections (a), (b), (c), and (d) and inserting in lieu thereof the following:

"SEC. 442. (a) From the sums appropriated to carry out this part, the Commissioner shall reserve the amount provided for in subsection (b) and shall allot the remainder among the States in accordance with section 465."

AUTHORIZING PARTICIPATION OF HALF-TIME STUDENTS IN COLLEGE WORK-STUDY PROGRAM

SEC. 424. Section 444(a)(3)(C) of the Higher Education Act of 1965 is amended (1) by striking out "full time" both times it appears, and (2) by inserting after "student at the institution" and after "attendance there" the following: "on at least a half-time basis".

CONDITIONS OF AGREEMENT

SEC. 425. (a) Section 444(a)(3) of the Higher Education Act of 1965 is amended (1) by striking out "from low-income families" and inserting in lieu thereof the following: "with the greatest financial need, taking into account grant assistance provided such student from any public or private sources", and (2) by amending clause (B) to read as follows: "(B) shows evidence of academic or creative promise and capability of maintaining good standing in such course of study while employed under the program covered by the agreement, and".

(b) Section 444(a) of such Act is amended by striking out paragraph (4).

WORK-STUDY FOR COMMUNITY SERVICE LEARNING PROGRAM

SEC. 426. Part C of title IV of the Higher Education Act of 1965 is amended by adding at the end thereof the following new section:

"WORK-STUDY FOR COMMUNITY SERVICE LEARNING PROGRAM

"SEC. 447. (a) The purpose of this section is to enable students in eligible institutions who are in need of additional financial support to attend institutions of higher education, with preference given to veterans who served in the Armed Forces in Indochina or Korea after August 5, 1964, to obtain earnings from employment which offers the maximum potential both for effective service to the community and for enhancement of the educational development of such students.

"(b) There are authorized to be appropriated $50,000,000 for the fiscal year 1972 and each succeeding fiscal year ending prior to July 1, 1976, to carry out this section through local project grants, without regard to the provisions of section 465.

"(c) The Commissioner is authorized to enter into agreements with public or private nonprofit agencies under which the Commissioner will make grants to such agencies to pay the compensation of students who are employed by such agencies in jobs providing needed community services and which are of educational value.

"(d) An agreement entered into under subsection (c) above shall—

"(1) provide for the part-time employment of college students in projects designed to improve community services or solve particular problems in the community.

"(2) provide assurances that preference will be given to veterans who served in the Armed Forces in Indochina or Korea after August 5, 1964 in recruiting students in eligible institutions for jobs under this section, and that the agency will make an effort to relate the projects performed by students to their general academic program and to a comprehensive program for college student services to the community.

"(3) conform with the provisions of clauses (A), (B) and (C) of paragraph (1) of section 444(a), and provide for the selection of students who meet the requirements of clauses (A), (B) and (C) of paragraph (3) of section 444(a);

"(4) include such other provisions as the Commissioner shall deem necessary or appropriate to carry out the purposes of this section.

"(e) For purposes of this section, the term 'community service' includes, but is not limited to, work in such fields as environmental quality, health care, education, welfare, public safety, crime prevention and control, transportation, recreation, housing and neighborhood improvement, rural development, conservation, beautification, and other fields of human betterment and community improvement."

PART D—EXTENSION AND AMENDMENT OF COOPERATIVE EDUCATION PROGRAMS

EXTENSION OF PROGRAM

SEC. 431. (a) Section 451(a) of the Higher Education Act of 1965 is amended by striking out "There are authorized to be appropriated $340,000 for the fiscal year ending June 30, 1969, $8,000,000 for the fiscal year ending June 30, 1970, and $10,000,000 for the fiscal year ending June 30, 1971," and inserting in lieu thereof "There are authorized to be appropriated such sums as may be necessary for the fiscal year 1972, and for each succeeding fiscal year ending prior to July 1, 1976,".

(b) The second sentence of section 451(a) of such Act is repealed.

(c) Section 451(b) of such Act is amended by striking out "$750,000 for the fiscal year ending June 30, 1969, and for each of the two succeeding fiscal years," and inserting in lieu thereof "such sums as may be necessary for the fiscal year 1972, and for each fiscal year ending prior to July 1, 1976,".

NEW USE OF FUNDS

SEC. 432. (a) Section 451(b) of the Higher Education Act of 1965 is amended by inserting after "training" the following: ", demonstration.".

(b) Section 453 of such Act is amended by inserting immediately before "or for research" the following: "for projects demonstrating or exploring the feasibility or value of innovative methods of cooperative education,".

PART E—AMENDMENTS TO GENERAL PROVISIONS RELATING TO STUDENT ASSISTANCE

FORMULA FOR ALLOTTING STUDENT FINANCIAL ASSISTANCE FUNDS AMONG STATES

SEC. 441. Part E of title IV of the Higher Education Act of 1965 is amended by inserting after section 464 the following new section:

"ALLOTMENT OF FUNDS TO STATES

"SEC. 465. (a) Subject to the provision of subsection (c) ninety per centum of the sums appropriated for a fiscal year (1) under section 401(b) of this Act, (2) under section 441(b) of this Act (after making the reservation provided for in section 442), or (3) under section 201 of the National Defense Education Act of 1958, for fiscal years ending prior to July 1, 1976, shall each be allotted by the Commissioner among the States as provided in subsection (b).

"(b) In allotting sums under subsection (a), the Commissioner shall allot not to exceed two per centum of each sum being allotted between American Samoa and the Trust Territory of the Pacific Islands according to their respective needs for the assistance for which the sum being allotted was appropriated. The remainder of each sum shall be allotted as follows:

"(1) one-third shall be allotted by the Commissioner among the States so that the allotment to each State under this clause will be an amount which bears the same ratio to such one-third as the number of persons enrolled on a full-time basis in institutions of higher education in such State bears to the total number of persons enrolled on a full-time basis in institutions of higher education in all the States;

"(2) one-third shall be allotted by the Commissioner among the States so that the allotment to each State under this clause will be an amount which bears the same ratio to such one-third as the number of high school graduates (as defined in section 103(d)(3) of the Higher Education Facilities Act of 1963) of such State bears to the total number of such high school graduates of all the States; and

"(3) one-third shall be allotted by him among the States so that the allotment to each State under this clause will be an amount which bears the same ratio to such one-third as the number of related children under eighteen years of age living in families with annual incomes of less than $3,000 in such State bears to the number of related children under eighteen years of age living in families with annual incomes of less than $3,000 in all the States.

"(c) In the event the allotment to a State for a fiscal year after the fiscal year 1972 from the appropriations described in clause (1), (2), or (3) of subsection (a) plus any amounts allotted under subsection (d), is less than the amount so allotted to such State from the amount so appropriated for the fiscal year 1972, such allotment to the State shall be increased to an amount equal to its allotment from such appropriation for the fiscal year 1972, and the total of the increases thereby required shall be derived by proportionately reducing the allotments of each of the remaining States, but with such adjustments as may be necessary to prevent the allotment from such appropriation to any State from being thereby reduced below its allotment from such appropriation for the fiscal year 1972.

"(d) The sums remaining after making the allotments provided for in subsection (a) of this section shall be allotted among the States by the Commissioner in accordance with equitable criteria which he shall establish and which shall be designed to achieve a distribution of the sum being allotted among the States which will most effectively carry out the purpose for which the funds were appropriated. Sums allotted to a State under this subsection shall be consolidated with, and become a part of, its allotment of funds from the same appropriation under the preceding subsections of this section.

"(e) The portion of any State's allotment under subsections (a), (b), (c), and (d) of this section for a fiscal year which the Commissioner determines will not be required in the State for the purpose for which appropriated may be reallotted by the Commissioner from time to time, on such dates as he may fix, to other States in such manner as he determines will best assist in achieving the purpose for which the funds were appropriated.

"(f) For purposes of this section (other than subsection (g)), the term 'State' does not include American Samoa or the Trust Territory of the Pacific Islands.

"(g) Sums appropriated under section 201 of the National Defense Education Act of 1958 for a fiscal year ending after June 30, 1976, shall be allotted among the States in such manner as the Commissioner determines to be necessary to carry out the purpose for which such amounts were appropriated."

TRANSFER OF FUNDS BETWEEN PROGRAMS

SEC. 442. (a) Effective with respect to fiscal years ending after June 30, 1972, subpart 1 of part E of title IV of the Higher Education Act of 1965 is amended by adding at the end thereof (after the section added by section 441) the following new sections:

"TRANSFERS BETWEEN PROGRAMS

"SEC. 466. Up to 10 per centum of the allotment of an institution of higher education for a fiscal year under section 405 or 442 of this Act, may be transferred to, and used for the purposes of, the institution's allotment under the other section within the discretion of such institution in order to offer an arrangement of types of aid, including institutional and State aid, which best fits the needs of each individual student. The Commissioner shall have no control over such transfer, except as specifically authorized, except for the collection and dissemination of information.

"GUIDELINES

"SEC. 467. Copies of all rules, regulations, guidelines, instructions, and application forms published or promulgated pursuant to this title shall be provided to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives at least thirty days prior to their effective date."

WAIVER OF MAINTENANCE OF EFFORT REQUIREMENTS IN CERTAIN CASES

SEC. 443. (a) Section 464 of such Act is amended by inserting before the period at the end thereof the following: ", except that under special and unusual circumstances the Commissioner is authorized to waive the application of any provision of such an agreement which is required by this section".

(b) The amendment made by subsection (a) shall be deemed to be effective from the date of enactment of the Higher Education Act of 1965.

PART F—SECONDARY MARKET AND WAREHOUSING

SEC. 451. Title IV of the Higher Education Act of 1965 is amended by adding at the end thereof the following new part F:

"PART F—STUDENT LOAN MARKETING ASSOCIATION

"DECLARATION OF PURPOSE

"SEC. 471. Congress hereby declares that it is the purpose of this part to establish a Government-sponsored private corporation which will be financed by private capital and which will serve as a secondary market and warehousing facility for insured student loans and provide liquidity for student loan investments.

"CREATION OF AGENCY

"SEC. 472. (a) There is hereby created a body corporate to be known as the Student Loan Marketing Association (hereinafter referred to as the 'Association'). The Association shall have succession until dissolved by Act of Congress. It shall maintain its principal office in the District of Columbia and shall be deemed, for purposes of venue in civil actions, to be a resident thereof. Offices may be established by the Association in such other place or places as it may deem necessary or appropriate for the conduct of its business.

"(b) The Association, including its franchise, capital, reserves, surplus, mortgages, or other security holdings, and income shall be exempt from all taxation now or hereafter imposed by any State, territory, possession, Commonwealth, or dependency of the United States, or by the District of Columbia, or by any county, municipality, or local taxing authority, except that any real property of the Association shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

"(c) There are hereby authorized to be appropriated to the Secretary of Health, Education, and Welfare such sums as may be necessary for making advances for the purpose of helping to establish the Association. Such advances shall be repaid within such period as the Secretary may deem to be appropriate in light of the maturity and solvency of the Association.

"BOARD OF DIRECTORS

"SEC. 473. (a) The Association shall have a Board of Directors which shall consist of twenty-one persons, one of whom shall be designated Chairman by the President.

"(b) An interim Board of Directors shall be appointed by the President, one of whom he shall designate as interim Chairman. The interim Board shall consist of twenty-one members, seven of whom shall be representative of banks or other financial institutions which are insured lenders under this title, seven of educational institutions, and seven of the general public. The interim Board shall arrange for an initial offering of common and preferred stocks and take whatever other actions are necessary to proceed with the operations of the Association.

"(c) When in the judgment of the President, sufficient common stock of the Association has been purchased by educational institutions and banks or other financial institutions, the holders of common stock which are educational institutions shall elect seven members of the Board of Directors and the holders of common stock which are banks or other financial institutions shall elect seven members of the Board of Directors. The President shall appoint the remaining seven directors, who shall be representative of the general public.

"(d) At the time the event described in subsection (c) has occurred, the interim Board shall turn over the affairs of the Association to the regular Board so chosen or appointed.

"(e) The directors shall serve for a term ending on the date of the next annual meeting of the common stockholders of the Association and, in the case of those directors appointed by the President, until their successors have been appointed and have qualified. Any appointive seat on the Board which becomes vacant shall be filled by appointment of the President. Any elective seat on the Board which becomes vacant after the annual election of the directors shall be filled by the Board, but only for the unexpired portion of the term.

"(f) The Board of Directors shall meet at the call of its chairman, but at least semiannually. The Board shall determine the general poliices which shall govern the operations of the Association. The Chairman of the Board shall, with the approval of the Board, select, appoint, and compensate qualified persons to fill the offices as may be provided for in the bylaws, with such executive functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the executive officers of the Association and shall discharge all such executive functions, powers, and duties.

"FUNCTIONS

"SEC. 474. (a) The Association is authorized, subject to the provisions of this part, pursuant to commitments or otherwise, to make advances on the security of, purchase, service, sell, or otherwise deal in, at prices and on terms and conditions determined by the Association, student loans which are insured under this part.

"(b) Any advance made under subsection (a) of this section shall not exceed 80 per centum of the face amount of an insured loan. The proceeds from any such advance shall be invested in additional insured student loans.

"COMMON STOCK

"SEC. 475. (a) The Association shall have common stock having a par value of $100 per share which may be issued only to lenders under part B of this title who are quali-

fied as insured lenders under such part or who are eligible institutions as defined in section 435(b) (other than an institution outside the United States).

"(b) Each share of common stock shall be entitled to one vote with rights of cumulative voting at all elections of directors. Voting shall be by classes as described in section 473(c).

"(c) The common stock of the Association shall be transferable only as may be prescribed by regulations of the Secretary, and, as to the Association, only on the books of the Association. The Secretary shall prescribe the maximum number of shares of common stock the Association may issue and have outstanding at any one time.

"(d) To the extent that net income is earned and realized, subject to section 476 (b), dividends may be declared on common stock by the Board of Directors. Such dividends as may be declared by the Board shall be paid to the holders of outstanding shares of common stock, except that no such dividend shall be payable with respect to any share which has been called for redemption past the effective date of such call.

"PREFERRED STOCK

"SEC. 476. (a) The Association is authorized, with the approval of the Secretary, to issue nonvoting preferred stock with a par value of $100 per share. Any preferred share issued shall be freely transferable, except that, as to the Association, it shall be transferred only on the books of the Association.

"(b) The holders of the preferred shares shall be entitled to such rate of cumulative dividends and such shares shall be subject to such redemption or other conversion provisions, as may be provided for at the time of issuance. No dividends shall be payable on any share of common stock at any time when any dividend is due on any share of preferred stock and has not been paid.

"(c) In the event of any liquidation, dissolution, or winding up of the Association's business, the holders of the preferred shares shall be paid in full at par value thereof, plus all accrued dividends, before the holders of the common shares receive any payment.

"OBLIGATIONS

"SEC. 477. (a) The Association is authorized with the approval of the Secretary and the Secretary of the Treasury to issue and have outstanding obligations having such maturities and bearing such rate or rates of interest as may be determined by the Association. Such obligations may be redeemable at the option of the Association before maturity in such manner as may be stipulated therein.

"(b) The Secretary is authorized, on behalf of the United States, to guarantee payment when due of principal and interest on obligations issued by the Association in an aggregate amount determined by the Secretary in consultation with the Secretary of the Treasury.

"(c) To enable the Secretary to discharge his responsibilities under guarantees issued by him, he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. There are hereby authorized to be appropriated to the Secretary such sums as may be necessary to pay the principal and interest on the notes or obligations issued by him to the Secretary of the Treasury.

"GENERAL POWERS

"SEC. 478. The Association shall have power—

"(a) to sue and be sued, complain and defend, in its corporate name and through its own counsel;

"(b) to adopt, alter, and use the corporate seal, which shall be judicially noticed;

"(c) to adopt, amend, and repeal by its board of directors, bylaws, rules, and regulations as may be necessary for the conduct of its business;

"(d) to conduct its business, carry on its operations, and have officers and exercise the power granted by this part in any State without regard to any qualification or similar statute in any State;

"(e) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated;

"(f) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Association;

"(g) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

"(h) to appoint such officers, attorneys, employees, and agents as may be required, to determine their qualifications, to define their duties, to fix their salaries, require bonds for them and fix the penalty thereof; and

"(i) to enter into contracts, to execute instruments, to incur liabilities, and to do all things necessary or incidental to the proper management of its affairs and the proper conduct of its business.

"AUDIT

"SEC. 479. The accounts of the Association shall be audited at least annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants or by independent licensed public accountants, licensed on or before December 31, 1970, who are certified or licensed by a regulatory authority of a State or other political subdivision of the United States, except that independent public accountants licensed to practice by such regulatory authority after December 31, 1970, and persons who, although not so certified or licensed, meet, in the opinion of the Secretary, standards of education and experience representative of the highest standards prescribed by the licensing authorities of the several States which provide for the continuing licensing of public accountants and which are prescribed by the Secretary in appropriate regulations may perform such audits until December 31, 1975. A report of each such audit shall be furnished to the Secretary of the Treasury.

"AUDIT REPORT TO CONGRESS

"SEC. 480. A report of each such audit for a fiscal year shall be made by the Secretary to the President and to the Congress not later than six months following the close of such fiscal year. The report shall set forth the scope of the audit and shall include a statement (showing intercorporate relations) of assets and liabilities, capital and surplus or deficit; a statement of surplus or deficit analysis; a statement of income and expense; a statement of sources and application of funds; and such comments and information as may be deemed necessary to keep the President and the Congress informed of the operations and financial condition of the Association, together with such recommendations with respect thereto as the Secretary may deem advisable, including a report of any impairment of capital or lack of sufficient capital noted in the audit. A copy of each report shall be furnished to the Secretary of the Treasury and to the Association.

"OBLIGATIONS AS LAWFUL INVESTMENT, ACCEPTANCE AS SECURITY

"SEC. 481. All obligations issued by the Association shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under authority or control of the United States or of any officer or officers thereof. All stock and obligations issued by the Association pursuant to this part shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission, to the same extent as securities which are direct obligations of, or obligations guaranteed as to principal or interest by, the United States. The Association shall, for the purposes of section 14(b)(2) of the Federal Reserve Act, be deemed to be an agency of the United States.

"PREPARATION OF OBLIGATIONS

"SEC. 482. In order to furnish obligations for delivery by the Association, the Secretary of the Treasury is authorized to prepare such obligations in such form as the Board of Directors may approve, such obligations when prepared to be held in the Treasury subject to delivery upon order by the Association. The engraved plates, dies, bed pieces, and other materials, executed in connection therewith shall remain in the custody of the Secretary of the Treasury. The Association shall reimburse the Secretary of the Treasury for any expenditures made in the preparation, custody, and delivery of such obligations.

"ANNUAL REPORT

"SEC. 483. The Association shall, as soon as practicable after the end of each fiscal year, transmit to the President and the Congress a report of its operations and activities during each year.

"SEPARABILITY

"SEC. 484. If any provision of this part or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the part, and the application of such provisions to other persons or circumstances, shall not be affected.".

AMENDMENTS RELATING TO FINANCIAL INSTITUTIONS

SEC. 452. (a) The sixth sentence of the seventh paragraph of section 5136 of the Revised Statutes, as amended (12 U.S.C. 24), is amended by inserting "or obligations or other instruments or securities of the Student Loan Marketing Association," immediately after "or obligations, participation, or other instruments of or issued by the Federal National Mortgage Association or the Government National Mortgage Association,".

(b) Section 5200 of the Revised Statutes, as amended (12 U.S.C. 84), is amended by adding at the end thereof the following new paragraph:

"(14) Obligations of the Student Loan Marketing Association shall not be subject to any limitation based upon such capital and surplus."

(c) The first paragraph of section 5(c) of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. 1464(c)), is amended by inserting "or in obligations or other instruments or securities of the Student Loan Marketing Association;" in the second proviso immediately after "any political subdivision thereof".

(d) Section 107(8)(E) of the Federal Credit Union Act, as amended (12 U.S.C. 1957(8)(E)), is amended by inserting before the semicolon at the end thereof the following: ", or in obligations or other instruments or securities of the Student Loan Marketing Association".

PART G—EXTENSION AND AMENDMENT OF TITLE II OF THE NATIONAL DEFENSE EDUCATION ACT OF 1958

EXTENSION OF STUDENT LOAN PROGRAM

SEC. 461. The first sentence of section 201 of the National Defense Education Act of 1958 is amended to read as follows: "For the purpose of enabling the Commissioner to stimulate and assist in the establishment at institutions of higher education of funds for the making of low interest loans to students in need thereof to pursue their courses of study in such institutions, there are hereby authorized to be appropriated $425,000,000 for the fiscal year 1972, $475,000,000 for the fiscal year 1973, $575,000,000 for the fiscal year 1974, and $675,000,000 for the fiscal year 1975 and the succeeding fiscal year, to carry out this part, and there are further authorized to be appropriated such sums for the fiscal year 1977, and each of the next three fiscal years, as may be necessary to enable students who have received loans for school years ending prior to July 1, 1976, to continue or complete their education."

REVISION OF STATE ALLOTMENT FORMULA

SEC. 462. Section 202 of the National Defense Education Act of 1958 is amended to read as follows:

"ALLOTMENTS TO STATES

"SEC. 202. The Commissioner shall allot funds appropriated pursuant to section 201 among the States in accordance with section 465 of the Higher Education Act of 1965."

MODIFICATION OF LOAN LIMIT

SEC. 463. Section 205(a) of the National Defense Education Act of 1958 is amended to read as follows:

"SEC. 205. (a) The aggregate of the loans for all years made by institutions of higher education from loan funds established pursuant to agreements under this title may not exceed $10,000 in the case of any graduate or professional student (as defined by regulations of the Commissioner, and including any loans from such funds made to such person before he became a graduate or professional student), $5,000 in the case of a student who has successfully completed two years of a program of education leading to a bachelor's degree, but who has not completed the work necessary for such a degree (determined under regulations of the Commissioner and including any loans from such funds made to such person before he became such a student), and $2,500 in the case of any other student.

ASSIGNMENT OF LOANS IN DEFAULT TO THE COMMISSIONER

SEC. 464. (a) Effective thirty days after the date of enactment of this Act, section 204 of the National Defense Education Act of 1958 is amended by striking out "and" at the end of paragraph (3), by renumbering paragraph (4) as paragraph (5), and by inserting after paragraph (3) the following new paragraph:

"(4) provide that where a note or written agreement evidencing a loan has been in default for at least one hundred and eighty days despite due diligence on the part of the institution in making collection thereon, the institution may assign its rights under such note or agreement to the United States, without recompense, and that in that event any sums collected on such a loan shall be deposited in the general fund of the Treasury."

INCREASE IN MINIMUM RATE OF REPAYMENT

SEC. 465. Section 205(b)(2)(F) of the National Defense Education Act of 1958 is amended by striking out "$15" and inserting "$30."

PROVIDING THAT A VETERAN SHALL BE CONSIDERED SELF-SUPPORTING IN DETERMINING HIS NEED FOR A LOAN

SEC. 466. Section 207 of the National Defense Education Act of 1958 is amended by adding at the end thereof the following new subsection:

"(e) In determining, for purposes of clause (A) of paragraph (1) of subsection (b) of this section, whether a student who is a veteran (as that term is defined in section 101 (2) of title 38, United States Code), is in need an institution shall not take into account the income and assets of his parents."

REIMBURSEMENT IN FULL TO COVER REDUCTIONS

SEC. 467. Section 208 of the National Defense Education Act of 1958 is amended to read as follows:

"PAYMENTS TO COVER REDUCTIONS IN AMOUNTS OF LOANS

"SEC. 208. In addition to the payments otherwise authorized to be made pursuant to this title, the Commissioner shall pay to the appropriate institution, at such time or times as he determines, an amount equal to the interest which, after the effective date of the Higher Education Act of 1971, has been prevented from accruing and the portion of the principal which has been canceled after such effective date on student loans pursuant to paragraph (3) of section 205(b) (and not previously paid under this section)."

REVISION OF PROVISION RELATING TO LOAN FORGIVENESS

SEC. 468. (a) Section 205(b)(3) of the National Defense Education Act of 1958 is amended to read as follows:

"(3) part or all of such loan may be canceled for certain service as a teacher, in accordance with section 210;".

(b) Title II of such Act is amended by adding at the end thereof the following new section:

"CANCELLATION FOR CERTAIN SERVICE AS A TEACHER

"SEC. 210. (a)(1) Fifteen per centum of the total amount of any loan made after June 30, 1972, from a student loan fund established under this title shall be canceled for each complete academic year of service by the borrower—

"(A) as a full-time teacher in an elementary or secondary school described in paragraph (3),

"(B) as a full-time staff member in a preschool program carried on under section 222(a)(1) of the Economic Opportunity Act of 1964 which is operated for a period which is comparable to a full school year in the locality: *Provided*, That the salary of such staff member is not more than the salary of a comparable employee of a local educational agency, or

"(C) as a full-time teacher of handicapped children (including mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed or other health impaired children who by reason thereof require special education) in a public or other nonprofit elementary or secondary school system.

"(2) A teacher may receive cancellation of a loan under subparagraph (A) of paragraph (1) only for service in an academic year in a public or other nonprofit elementary or secondary school which is in the school district of a local educational agency which is eligible in such year for assistance pursuant to title I of the Elementary and Secondary Education Act of 1965, as amended, and which for purposes of this paragraph and for that year had been determined by the Commissoner (pursuant to regulations and after consultation with the State educational agency of the State in which the school is located) to be a school in which the enrollment of children described in clause (A), (B), or (C) of section 103(a)(2) of title I of the Elementary and Secondary Education Act of 1965, as amended (using a low-income factor of $3,000), exceeds 40 per centum of the total enrollment of the school.

"(b) In the case of a loan made before July 1, 1972, not to exceed 50 per centum of such loan (1) shall be canceled for service as a full-time teacher in a public or other nonprofit elementary or secondary school in a State, in an institution of higher education, or in an elementary or secondary school overseas of the Armed Forces of the United States at the rate of 10 per centum of the total amount of such loan for each complete academic year of such service, except that (A) such rate shall be 15 per centum for each complete academic year of service as a full-time teacher in a public or other nonprofit elementary or secondary school which is in the school district of a local educational agency which is eligible in such year for assistance pursuant to title I of the Elementary and Secondary Education Act of 1965, as amended, and which for purposes of this paragraph and for that year has been determined by the Commissioner (pursuant to regulations and after consultation with the State educational agency of the State in which the school is located) to be a school in which there is a high concentration of students from low-income families, except that (unless all of the schools so determined are schools in which the enrollment of children described in clause (A), (B), or (C) of section 103(a)(2) of such title (using a low-income factor of $3,000) exceeds 50 per centum of the total enrollment of the school) the Commissioner shall not make such determination with respect to more than 25 per centum of the total of the public and other nonprofit elementary and secondary schools in any one State for any one year, (B) such rate shall be 15 per centum for each complete academic year of service as a full-time teacher of handicapped children (including mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, or other health impaired children who by reason thereof require special education) in a public or other nonprofit elementary or secondary school system, and (C) for the purposes of any cancellation pursuant to clause (A) or (B), an additional 50 per centum of any such loan may be canceled, and (2) shall be canceled for service after June 30, 1970, as a member of the Armed Forces of the United States at the rate of 12½ per centum of the total amount of such loan for each year of consecutive service, but only if such loan was made after April 13, 1970.

"(c)(1) If for any academic year any portion of a loan is canceled under subsection (a) or (b), the entire amount of interest on such loan which accrues for such year shall be canceled.

"(2) Nothing in this section shall authorize refunding any repayment of a loan.

"(3) For purposes of this section, the term 'academic year' means an academic year or its equivalent (as determined under regulations of the Commissioner)."

TITLE V—EXTENSION AND AMENDMENT OF EDUCATION PROFESSIONS DEVELOPMENT ACT

PART A—AMENDMENTS TO PART A OF TITLE V

EXTENSION OF NATIONAL ADVISORY COUNCIL ON EDUCATION PROFESSIONS DEVELOPMENT AND PROGRAM FOR ATTRACTING QUALIFIED PERSONNEL TO THE FIELD OF EDUCATION

SEC. 501. (a) Section 502(f) of the Higher Education Act of 1965 (the Education Professions Development Act) is amended by striking out "and" after "1968," and inserting before the period at the end thereof the following: ", and such sums as may be necessary for

each succeeding fiscal year ending prior to July 1, 1976".

(b) Section 504(b) of such Act is amended by striking out "and" after "1969," and by inserting before the period at the end thereof the following: ", and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976".

PART B—AMENDMENTS TO SUBPART 1 OF PART B

EXTENSION OF TEACHER CORPS PROGRAM

SEC. 511. Section 511(b) of the Higher Education Act of 1965 is amended (1) by striking out "and" after "1970." and by inserting after "June 30, 1971," the following: "and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976,", and (2) by striking out "1972" and inserting "1977".

PART C.—AMENDMENTS TO SUBPART 2 OF PART B

ATTRACTING AND QUALIFYING TEACHERS TO ALLEVIATE TEACHER SHORTAGES

SEC. 521. Section 518(b) of the Higher Education Act of 1965 is amended by striking out "and" after "1969," and by inserting before the period at the end thereof the following: ", and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976".

VOLUNTEER SERVICE PROGRAMS

SEC. 522. Section 518(a) of the Higher Education Act of 1965 is amended by striking out "the succeeding", and inserting in lieu thereof "each succeeding", and by striking out "and" before "(2)" and by inserting before the period at the end thereof the following: ", (3) encourage volunteers (including high school and college students) for service as part-time tutors or full-time instructional assistants for educationally disadvantaged children, (4) compensate such tutors and instructional assistants at such rates as the Commission may determine to be consistent with prevailing practices under comparable federally supported work-study programs, and (5) provide necessary training to teachers to enable them to teach other grades or other subjects in which such agencies have a teacher shortage".

INCREASE IN AMOUNT AVAILABLE FOR ADMINISTRATION

SEC. 523. Section 520(a)(2) of such Act is amend (1) by striking out "and (C)" and inserting in lieu thereof the following: "(C) programs of such agencies to provide necessary training to teachers to enable them to teach other grades or other subjects in which such agencies have a teacher shortage, and (D)", (2) by striking out "3 per centum" and inserting in lieu thereof "5 per centum", and (3) by inserting before the semicolon: ", or $20,000, whichever is greater".

ELIMINATING CEILING ON AMOUNT FOR AIDES

SEC. 524. Section 520(a) of such Act is further amended by striking out paragraph (5) and redesignating paragraphs (6), (7), (8) and (9) as paragraphs (5), (6), (7), (8); and (5) thereof (as so redesignated) is amended by inserting after "because he" the following: "is teaching or".

PART D—AMENDMENT TO PART C

EXTENSION OF FELLOWSHIP PROGRAM

SEC. 531. Section 528 of the Higher Education Act of 1965 is amended by striking out "1971" each time it appears and inserting "1976".

FELLOWSHIPS IN SCHOOL NURSING

SEC. 532. Section 521 of the Higher Education Act of 1965 is amended by inserting "school nursing," after "such as library science,".

PART E—AMENDMENTS TO PART D (IMPROVING TRAINING OPPORTUNITIES FOR NON-HIGHER EDUCATION PERSONNEL)

SEC. 541. Section 532 of the Higher Education Act of 1965 is amended by striking out "and" after "1969," and inserting before the period at the end thereof the following: ", and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976".

SUPPORT OF VOLUNTEER SERVICES PROGRAM

SEC. 542. Section 531(b) of such Act is amended by striking out the period at the end of paragraph (10) and inserting a semicolon, and by adding the following new paragraph at the end thereof:

"(11) programs or projects to encourage volunteers (including high school and college students) for service as part time tutors or full time instructional assistants in preschool, elementary, and secondary school classes, especially for educationally disadvantaged children;"

COMPENSATION OF TUTORS AND INSTRUCTIONAL ASSISTANTS

SEC. 543. Section 531(c) of such Act is amended by striking out "or" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting a semicolon, and by adding the following new paragraph after paragraph (2):

"(3) compensating tutors and instructional assistants at such rates as the Commissioner may determine to be consistent with the prevailing practices under comparable federally supported work-study programs; or"

DEVELOPING AND STRENGTHENING PROGRAMS FOR THE EDUCATION OF TEACHERS AND RELATED EDUCATIONAL PERSONNEL

SEC. 544. (a) Section 531(b) of such Act is further amended by adding the following new paragraph at the end thereof:

"(12) programs or projects (including cooperative arrangements or consortia between institutions of higher education and junior and community colleges, or between such institutions and State or local education agencies and nonprofit education associations) for the development, expansion, or improvement or undergraduate programs for preparing educational personnel, including design, development, and evaluation of exemplary undergraduate training programs, introduction of high quality and more effective curriculums and curricular materials, and the provision of increased opportunities for practical teaching experience for prospective teachers in elementary and secondary schools."

(b) Section 531(c) of such Act is further amended by adding the following new paragraph at the end thereof:

"(4) projects or programs to develop, expand, or improve undergraduate and other programs for training educational personnel."

APPLICATION OF PART D TO INDIAN SCHOOLS

SEC. 545. Section 532 of the Higher Education Act of 1965 is amended by inserting "(a)" after "SEC. 532." and by inserting at the end thereof the following new subsection:

"(b) From the sums appropriated pursuant to subsection (a), the Commissioner may also make payments to the Secretary of the Interior to carry out the policy of this part with respect to persons preparing to serve as teachers of individuals on reservations serviced by elementary and secondary schools for Indian children operated or supported by the Department of the Interior. The terms upon which payments for that purpose may be made to the Secretary of the Interior shall be determined pursuant to such criteria as the Commissioner determines will best carry out the policy of this part.

PART F—AMENDMENTS TO PART E (PROGRAMS OF TRAINING FOR HIGHER EDUCATION PERSONNEL)

SEC. 551. Section 543 of the Higher Education Act of 1965 is amended by striking out "and" after "1969," and by inserting before the period at the end thereof the following: ", and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976."

PART G—TRAINING AND DEVELOPMENT OF VOCATIONAL EDUCATION PERSONNEL

SEC. 561. Section 555 of the Higher Education Act of 1965 is amended by striking out "and" after "1971," and by inserting before the period at the end thereof the following: ", and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976."

TITLE VI—EXTENSION OR AMENDMENTS OF CERTAIN OTHER PROVISIONS OF LAW

EXTENSION OF PART A OF TITLE III OF NATIONAL DEFENSE EDUCATION ACT OF 1958

SEC. 601. Section 301 of the National Defense Education Act of 1958 is amended by inserting after "1971," the following: "and for each succeeding fiscal year ending prior to July 1, 1976,", and by striking out "July 1, 1971" and inserting "July 1, 1976."

EXTENSION AND AMENDMENT OF TITLE IV OF THE NATIONAL DEFENSE EDUCATION ACT OF 1958

SEC. 602. (a) The first sentence of section 402(a) of the National Defense Education Act of 1958 is amended by striking out "seven succeeding fiscal years" and inserting in lieu thereof "ten succeeding fiscal years".

(b) Section 403 of such Act is amended to read as follows:

"AWARD OF FELLOWSHIPS AND APPROVAL OF INSTITUTIONS

"SEC. 403. (a) Of the total number of fellowships authorized by section 402(a) to be awarded during a fiscal year (1) not less than one-third shall be awarded to individuals accepted for study in graduate programs approved by the Commissioner under this section, and (2) the remainder shall be awarded on such bases as he may determine, subject to the provisions of subsection (c). The Commissioner shall approve a graduate program of an institution of higher education only upon application by the institution and only upon his finding that the application contains satisfactory assurance that the institution will provide special orientation and practical experiences designed to prepare its fellowship recipients for academic careers at some levels of education beyond the high school.

"(b) In determining priorities and procedures for the award of fellowships under this section, the Commissioner shall—

"(1) take into account present and projected needs for highly trained teachers in all areas of education beyond the high school,

"(2) give special attention to those institutions which have developed new doctoral-level programs especially tailored to prepare classroom teachers,

"(3) consider the need to prepare a large number of teachers and other academic leaders from minority groups, but nothing contained in this clause shall be interpreted to require any educational institution to grant preference or disparate treatment to the members of one minority group on account of an imbalance which may exist with respect to the total number or percentage of persons of that group participating in or receiving the benefits of this program, in comparison with the total number or percentage of persons of that group in any community, State, section, or other area,

"(4) assure that at least one-half of all new fellowship recipients have demonstrated their competence outside of a higher education setting for at least two years subsequent to the completion of their undergraduate studies,

"(5) allow a fellowship recipient to interrupt his studies for up to one year for the purpose of work, travel, or independent study

away from the campus, except that no stipend or travel expenses may be paid for such period, and

"(6) seek to achieve a reasonably equitable geographical distribution of graduate programs approved under this section based upon such factors as student enrollments in institutions of higher education and population.

"(c) Recipients of fellowships under this title shall be persons who are interested in an academic career in educational programs beyond the high school and are pursuing, or intend to pursue, a course of study leading to a degree of doctor of philosophy, doctor of arts, or an equivalent degree.

"(d) No fellowship shall be awarded under this title for study at a school or department of divinity. For the purposes of this subsection, the term 'school or department of divinity' means an institution or department or branch of an institution, whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation or to prepare them to teach theological subjects."

(c) Section 404(b) of such Act is amended to read as follows:

"(b) The Commissioner shall (in addition to the stipends paid to persons under subsection (a)) pay to the institution of higher education at which such person is pursuing his course of study, in lieu of tuition charged such person, such amounts as the Commissioner may determine to be consistent with prevailing practices under comparable federally supported programs, except that such amount shall not exceed $4,000 per academic year for any such person."

EXTENSION AND EXPANSION OF TITLE VI OF THE NATIONAL DEFENSE EDUCATION ACT

SEC. 603. (a) Section 601(a) of the National Defense Education Act of 1958 is amended to read as follows:

"(a) The Secretary is authorized to make grants to or contracts with institutions of higher education for the purposes of establishing, equipping, and operating graduate and undergraduate centers and programs for the teaching of any modern foreign language, for instruction in other fields needed to provide a full understanding of the areas, regions, or countries in which such language is commonly used, or for research and training in international studies and the international aspects of professional and other fields of study. Any such grant or contract may cover all or part of the cost of the establishment or operation of a center or program, including the costs of faculty, staff, and student travel in foreign areas, regions, or countries, and the costs of travel of foreign scholars to teach or conduct research, and shall be made on such conditions as the Secretary finds necessary to carry out the purposes of this section."

(b) Section 601(b) of such Act is amended to read as follows:

"(b) The Secretary is also authorized to pay stipends to individuals undergoing advanced training in any center or under any program receiving Federal financial assistance under this title, including allowances for dependents and for travel for research and study here and abroad, but only upon reasonable assurance that the recipients of such stipends will, on completion of their training, be available for teaching service in an institution of higher education or elementary or secondary school, or such other service of a public nature as may be permitted in the regulations of the Secretary."

(c) Section 601 of such Act is further amended by adding a new subsection (c), to read as follows:

"(c) No funds may be expended under this title for undergraduate travel except in accordance with rules prescribed by the Secretary setting forth policies and procedures to assure that Federal funds made available for such travel are expended as part of a formal program of supervised study."

(d) Section 603 of such Act is amended by striking out "and" after "1970," and by inserting after "1971," the following: "and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976,".

EXTENSION OF THE INTERNATIONAL EDUCATION ACT OF 1966

SEC. 604. Section 105(a) of the International Education Act of 1966 is amended by striking out "and" after "1968," and by inserting after "1971" the following: "and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976,".

EXTENSION OF PROGRAM TO ASSIST INSTITUTIONS IN THE ACQUISITION OF EQUIPMENT

SEC. 605. (a) Section 601(b) of the Higher Education Act of 1965 is amended by striking out "two" and inserting in lieu thereof "seven".

(b) Section 601(c) of such Act is amended by striking out "two succeeding fiscal years" and inserting "seven succeeding fiscal years".

EXTENSION OF NETWORKS FOR KNOWLEDGE PROGRAM

SEC. 606. Section 802 of the Higher Education Act of 1965 is amended by striking out "and" after "1970," and by inserting after "June 30, 1971" the following: ", and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976".

EXTENSION OF PUBLIC SERVICE EDUCATION PROGRAMS

SEC. 607. Section 925 of the Higher Education Act of 1965 is amended by striking out "and" after "1970," and by inserting after "June 30, 1971," the following: "and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976,".

EXTENSION OF PROGRAMS FOR IMPROVEMENT OF GRADUATE EDUCATION

SEC. 609. Section 1002(a) of the Higher Education Act of 1965 is amended by striking out "and" after "1970," and by inserting after "June 30, 1971," the following: "and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976,".

EXTENSION OF LAW SCHOOL CLINICAL EXPERIENCE PROGRAM

SEC. 610. Section 1103 of the Higher Education Act of 1965 is amended by striking out "and" after "1969," and by inserting after "of the fiscal years ending June 30, 1970, and June 30, 1971," the following: "and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976,".

TITLE VII—HIGHER EDUCATION FACILITIES

PART A—EXTENSION AND AMENDMENT OF HIGHER EDUCATION FACILITIES ACT OF 1963

EXTENSION OF UNDERGRADUATE FACILITIES CONSTRUCTION GRANT PROGRAM

SEC. 701. (a) Section 101(b) of the Higher Education Facilities Act of 1963 is amended (1) by striking out "and" after "1968," and inserting after "1971," the following: "and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976,", and (2) by striking out the second sentence thereof.

(b) Section 105(b) of such Act is amended by striking out "and" after "1966," and by inserting after "succeeding fiscal years" the following: ", and such sums as may be necessary for each succeeding fiscal year ending before July 1, 1976,".

EXTENSION OF GRADUATE FACILITIES CONSTRUCTION GRANT PROGRAM

SEC. 702. Section 201 of the Higher Education Facilities Act of 1963 is amended (1) by striking out "and" after "1967" and inserting after "1971" the following: ", and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976," and (2) by striking out the third sentence thereof.

EXTENSION OF CONSTRUCTION LOANS AND ANNUAL INTEREST GRANT PROGRAMS

SEC. 703. Section 303(c) of the Higher Education Facilities Act of 1963 is amended (1) by striking out "and" after "1967," and inserting after "1971" the following: ", and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976," and (2) by striking out the third sentence thereof.

ARCHITECTURAL AND DESIGN STANDARDS

SEC. 704. The last sentence of section 401(a)(1) of the Higher Education Facilities Act of 1963 is amended by inserting after "Act" the following: "(1) have due consideration for excellence of architecture and design consistent with economical construction, and (2)".

AUTHORIZING THE SECRETARY FOR GOOD CAUSE TO RELEASE AN INSTITUTION FROM ITS OBLIGATION TO USE A FACILITY FOR TWENTY YEARS FOR THE PURPOSES FOR WHICH CONSTRUCTED

SEC. 705. Section 404(b) of the Higher Education Facilities Act of 1963 is amended by inserting "unless the Secretary determines that there is good cause for releasing the institution from its obligation" immediately after "section 401(a)(2),".

PROHIBITION ON USE OF FACILITIES FOR RELIGIOUS PURPOSES

SEC. 706. Section 404 of the Higher Education Facilities Act of 1963 is amended by adding at the end thereof the following new subsection:

"(c) Notwithstanding the provisions of subsections (a) and (b), no facility constructed with assistance under titles I and II of this Act shall ever be used for religious worship or sectarian instruction or for a school or department of divinity."

PART B—NEW PROGRAM OF INSURED LOANS FOR CONSTRUCTION OF NONPROFIT PRIVATE ACADEMIC FACILITIES

SEC. 711. Title III of the Higher Education Facilities Act of 1963 is amended by inserting immediately after section 306 the following:

"ACADEMIC FACILITIES LOAN INSURANCE

"SEC. 307. (a) In order to assist nonprofit private institutions of higher education and nonprofit private higher education building agencies to procure loans for the construction of academic facilities, the Commissioner may insure the payment of interest and principal on such loans if such institutions and agencies meet, with respect to such loans, criteria prescribed by or under section 306 for the making of annual interest grants under such section.

"(b) No loan insurance under subsection (a) may apply to so much of the principal amount of any loan as exceeds 90 per centum of the development cost of the academic facility with respect to which such loan was made.

"RIGHT OF RECOVERY AND INCONTESTABLE NATURE OF INSURANCE

"SEC. 308. (a) The United States shall be entitled to recover from any institution or agency to which loan insurance has been issued under section 307 the amount of any payment made pursuant to that insurance, unless the Commissioner for good cause waives its right of recovery. Upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payment with respect to which the payment was made.

"(b) Any insurance issued by the Commissioner pursuant to section 307 shall be incontestable in the hands of the institution or agency on whose behalf such insurance is issued, and as to any agency, organization, or individual who makes or contracts to make a loan to such institution or agency in reliance thereon, except

for fraud or misrepresentation on the part of such institution or agency or on the part of the agency, organization, or individual who makes or contracts to make such loan.

"CONDITIONS

"SEC. 309. Insurance may be issued by the Commissioner under section 307 only if he determines that the terms, conditions, maturity, security (if any), and schedule and amounts of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable and in accord with regulations, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Commissioner determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States. The Commissioner may charge a premium for such insurance in an amount reasonably determined by him to be necessary to cover administrative expenses and probable losses under sections 307 and 308. Such insurance shall be subject to such further terms and conditions as the Commissioner determines to be necessary."

MAKING REVOLVING LOAN FUND AVAILABLE FOR LOAN INSURANCE

SEC. 712. (a) Section 305 of such Act is amended—

(1) by striking out the heading therefor and inserting "Revolving Loan and Insurance Fund" in lieu thereof;

(2) by inserting "and loan insurance" immediately after "academic facilities loans" in the first sentence thereof; and

(3) by inserting "or loan insurance" immediately following "any loans" in the second sentence thereof. (b) Section 303(c) of such Act is amended—

(1) by inserting "and may insure loans" immediately after "academic facilities" in the first sentence thereof; and

(2) by inserting "and for insurance" immediately after "for loans" in the last sentence thereof.

EFFECTIVE DATE

SEC. 713. The amendments made by section 711 shall be effective July 1, 1972, and the amendments made by section 712 shall be effective as if enacted on the date of enactment of section 305 of such Higher Education Facilities Act of 1963.

TITLE VIII—HIGHER EDUCATION GENERAL ASSISTANCE

SEC. 801. The Higher Education Act of 1965 is amended by inserting after title XI the following new title:

"TITLE XII—GENERAL ASSISTANCE FOR HIGHER EDUCATION

"PART A—INSTITUTIONAL ASSISTANCE

"FINDINGS AND DECLARATION OF PURPOSE

"SEC. 1201. The Congress hereby finds and declares that an emergency condition has arisen which threatens the continued ability of many institutions of higher education to provide the education necessary to enable our citizens to make their full contribution to the Nation's economic and cultural development. It is therefore the purpose of this part to meet this critical need through general assistance from the Federal Government as provided in this part.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1202. There is hereby authorized to be appropriated for the fiscal year 1972 and each succeeding fiscal year ending prior to July 1, 1976, to carry out the program of assistance to institutions of higher education under this part, an amount equal to the aggregate amount determined for all institutions of higher education for that year under paragraphs (2) and (3) of section 1203(a). Of the amount so appropriated for a fiscal year, two-thirds shall be available only for general education assistance grants under section 1203(a) and one-third shall be available only for cost of education grants under section 1203(b).

"ASSISTANCE

"SEC. 1203. (a) (1) From two-thirds of the sums appropriated under section 1202 for a fiscal year, the Commissioner shall make a general assistance grant for such fiscal year to each institution of higher education in an amount not exceeding that applied for by such institution or in an amount determined under paragraphs (2) and (3), whichever is the lesser. Such a grant may be made only if any application therefor has been approved in accordance with section 1204.

"(2) Subject to paragraph (4), the amount of the grant to which an institution is entitled under this subsection for a fiscal year shall be the aggregate of—

"(A) the product obtained by multiplying $100 times the full-time enrollment (including the full-time equivalent of the part-time enrollment for credit) of students in the first two years of post-secondary education at the institution,

"(B) the product obtained by multiplying $150 times the full-time enrollment (including the full-time equivalent of the part-time enrollment for credit) of students in the upper division of the institution defined as the last two academic years of instruction at the baccalaureate level in an institution awarding such degrees, and

"(C) the product obtained by multiplying $200 times the full-time enrollment (including the full-time equivalent of the part-time enrollment for credit) of students who are pursuing a program of post-baccalaureate study.

"(3) Subject to paragraph (4), in addition to the amounts to be paid under paragraph (2), an institution shall be entitled to an additional $300 for each of 200 students and an additional $200 for each of 100 additional students of the total full-time enrollment of such institution.

"(4) If two-thirds of the sums appropriated for any fiscal year for making grants under this part are not sufficient to pay in full the total amounts that all institutions of higher education are entitled to receive under this subsection, the grant to each such institution shall be an amount which bears the same ratio to the amount to which it is entitled under this subsection as two-thirds of the sums so appropriated bears to the total amount all institutions are entitled to receive under this subsection.

"(5) Determinations of enrollment under this subsection shall be made on the basis of credits earned by students at the institutions during the academic year ending during the second fiscal year preceding the fiscal year for which the determination is made. The Commissioner shall by regulation prescribe (1) the number of earned credits which constitute enrollment on a full-time basis, and (2) a definition of 'credit' to be used for such determinations which shall be substantially uniform for all institutions.

"(b) (1) From one-third of the sums appropriated under section 1202 for any fiscal year, the Commissioner shall, subject to paragraph (2), make a grant to each institution of higher education in an amount equal to 38 per centum of the aggregate of educational opportunity grants and work-study payments under title IV of this Act and loans under title II of the National Defense Education Act of 1958 made for such year to students who are enrolled in such institution plus the amount attributable to veterans in such institution as determined under subsection (3), except that—

"(A) such grant shall be equal to 50 per centum of such aggregate if the number of full-time students, and the full-time equivalent of the number of part-time students, enrolled in such institution during the most recent academic year ending prior to such fiscal year did not exceed one thousand,

"(B) such grant shall be equal to 46 per centum of such aggregate if the number of full-time students, and the full-time equivalent of the number of part-time students, enrolled in such institution during the most recent academic year ending prior to such fiscal year exceeded one thousand, but did not exceed three thousand, and

"(C) such grant shall be equal to 42 per centum of such aggregate if the number of full-time students, and the full-time equivalent of the number of part-time students, enrolled in such institution during the most recent academic year ending prior to such fiscal year exceeded three thousand, but did not exceed ten thousand.

"(2) If one-third of the sums appropriated for any fiscal year for making grants under this part are more than or less than the amount necessary to pay in full the total amounts that all institutions of higher education are entitled to receive under this subsection, the grant to each such institution shall be an amount which bears the same ratio to the amount to which it is entitled under this subsection as one-third of the sums so appropriated bears to the total amounts all institutions are entitled to receive under this subsection.

"(3) The amount attributable to veterans for purposes of paragraph (1) of this subsection shall be determined, in the case of each institution of higher education, by multiplying the number of veterans enrolled in such institution who have not completed one full academic year at an institution of higher education and who—

"(1) served on active duty in the Armed Forces for at least one hundred and eighty days after August 4, 1964, and

"(2) are receiving an educational assistance allowance under section 1682 of title 38, United States Code, or are receiving vocational rehabilitation under section 1502 of such title,

by an amount equal to (A) 40 per centum of the educational assistance allowance which would be paid them if they had no dependents, in the case of veterans receiving payments under section 1682, or (B) the amount of tuition and fees paid on their account in the case of veterans being furnished vocational rehabilitation under section 1502.

"APPLICATIONS

"SEC. 1204. An institution of higher education may receive a grant under this part only if it submits an application therefor at such time and in such manner as the Commissioner shall prescribe by regulations. The application may be approved if the Commissioner determines that the application—

"(1) describes general educational goals and specific objectives of the institution and the amount of institutional income needed to meet such goals and objectives,

"(2) provides satisfactory assurance that—

"(A) the proceeds of the grant will be used for programs of the applicant institution consistent with such goals and objectives,

"(B) current operating support from non-Federal sources for educationally-related programs of the institutions has not been reduced in anticipation of funds to be received under this part,

"(C) the applicant will make such reports as the Commissioner may require, including a summary report describing how the grant was expended and an evaluation of its effectiveness; and

"(3) contains such provisions as the Commissioner may require by regulation in order to protect the financial interest of the United States.

The Commissioner may waive the requirements of paragraph (2)(B) for any institu-

tion for any fiscal year if he determines such waiver would promote the purposes of this part.

"REPORT BY COMMISSIONER TO CONGRESS

"SEC. 1205. The Commissioner shall report to Congress within 120 days after the close of each fiscal year regarding the effectiveness of assistance under this part in meeting the goals and objectives of institutions of higher education and in encouraging diversity and autonomy among such institutions. The Commissioner shall also make such recommendations as seem appropriate regarding continuation, modification or extension of assistance under this part.

"LIMITATIONS

"SEC. 1206. No grant under this part may be made to, or used to support, a school or department of divinity or for religious worship or sectarian instruction. For purposes of this section, the term 'school or department of divinity' means an institution or department or branch of an institution whose program is specifically for the education of students to prepare them to be ministers of religion or to enter upon some other religious vocation or to prepare them to teach theological subjects.

"DEFINITIONS

"SEC. 1207. For purposes of this part—

"(1) The term 'institution of higher education' means an institution described in the first sentence of section 1601(a) of this title. A branch of an institution of higher education which is located in a community different from that of its parent institution shall be treated as a separate institution.

"(2) The term 'baccalaureate degree' means an undergraduate degree which normally requires at least four but not more than five years of full-time enrollment in an academic program for credit.

"PART B—NATIONAL COMMISSION ON FINANCING OF POSTSECONDARY EDUCATION

"PURPOSE

"SEC. 1211. (a) It is the purpose of this part to authorize a study of the impact of past and present support and the appropriate level of future support for postsecondary education from private sources and from Federal, State and local governments.

"(b) In order to give the States and the Nation the information needed to assess the dimensions of, and extent of, the financial crisis confronting the Nation's postsecondary institutions the study shall determine the need, the desirability, the form and the level of additional governmental and private assistance. Such study shall include but not be limited to (1) an analysis of the existing programs of aid to institutions of higher education, various alternative proposals presented to the Congress to provide assistance to institutions of higher education, as well as other viable alternatives which, in the judgment of the Commission merit inclusion in such a study; (2) the costs, advantages and disadvantages, and the extent to which each proposal would preserve the diversity and independence of such institutions; and (3) the extent to which each would advance the national goal of making postsecondary education accessible to all individuals, including returning veterans, having the desire and ability to continue their education.

"ESTABLISHMENT OF COMMISSION

"SEC. 1212. (a) There is hereby established, as an independent agency within the executive branch, a National Commission on the Financing of Postsecondary Education (hereinafter referred to as the 'Commission').

"(b) The Department of Health, Education, and Welfare shall provide the Commission with necessary administrative services (including those related to budgeting, accounting, financial reporting, personnel and procurement) for which payment shall be made in advance, or by reimbursement, from funds of the Commission and such amounts as may be agreed upon by the Commission and the Secretary of Health, Education, and Welfare.

"CONTRIBUTIONS

"SEC. 1213. (a) The Commission shall have authority to accept in the name of the United States, grants, gifts or bequests of money for immediate disbursement in furtherance of the functions of the Commission. Such grants, gifts, or bequests, after acceptance by the Commission, shall be paid by the donor or his representative to the Treasurer of the United States whose receipts shall be their acquittance. The Treasurer of the United States shall enter them in a special account to the credit of the Commission for the purposes in each case specified.

"FUNCTIONS

"SEC. 1214. In conducting such a study, the Commission shall consider:

"(1) the nature and causes of serious financial distress facing institutions of postsecondary education; and

"(2) alternative models for the long range solutions to the problems of financing postsecondary education with special attention to the potential Federal, State, local, and private participation in such programs, including, but not limited to—

"(A) the assessment of previous related private and governmental studies and their recommendations;

"(B) the determination of the annual per student cost of providing postsecondary education for students in attendance at various types and classes of postsecondary institutions;

"(C) existing state and local programs of aid to postsecondary institutions;

"(D) the level of endowment, private sector support and other incomes of postsecondary institutions and the feasibility of Federal and State income tax credits for charitable contributions to postsecondary institutions;

"(E) the level of Federal support of postsecondary institutions through such programs as research grants, and other general and categorical programs; and

"(F) alternative forms of student assistance, including but not limited to loan programs based on income contingent lending, loan programs which utilize fixed, graduated repayment schedules, loan programs which provide for cancellation or deferment of all or part of repayment in any given year based on a certain level of a borrower's income; and existing student assistance programs including but not limited to those administered by the U.S. Office of Education, the Social Security Administration, and the Veterans' Administration.

"REPORT TO CONGRESS

"SEC. 1215. Not later than June 30, 1973, the Commission shall make a final report to the President and Congress on the results of the investigation and study authorized by this part, together with such findings and recommendations, including recommendations for legislation, as they deem appropriate. An interim report shall be due no later than December 31, 1972. The Commission may release such other reports and studies at any time that it may desire.

"CONTRACT AUTHORITY

"SEC. 1216. In order to carry out the provisions of this part, the Commission is authorized to:

"(1) enter into contracts with institutions of postsecondary education and other appropriate individuals, public agencies and private organizations;

"(2) appoint and fix the compensation of such personnel as may be necessary;

"(3) employ experts and consultants in accordance with section 3109 of title 5, United States Code;

"(4) utilize, with their consent, the services, personnel, information and facilities of other Federal, State, local, and private agencies with or without reimbursement; and

"(5) consult with the heads of such Federal agencies as they deem appropriate.

"HEARINGS

"SEC. 1217. (a) The Commission is further authorized to conduct such hearings at such times and places as it deems appropriate for carrying out the purposes of this part.

"(b) The heads of all Federal agencies are, to the extent not prohibited by law, directed to cooperate with the Commission in carrying out this part.

"MEMBERSHIP

"SEC. 1218. (a) The Commission shall be composed of—

"(1) two Members of the Senate who shall be members of different political parties and who shall be appointed by the President of the Senate;

"(2) two Members of the House of Representatives who shall be members of different political parties and who shall be appointed by the Speaker of the House of Representatives; and

"(3) not to exceed thirteen members appointed by the President not later than ninety days after the date of enactment of this Act. Such members shall be appointed from:

"(i) members of State and local education agencies;

"(ii) State and local government officials;

"(iii) education administrators from private and public higher education institutions and community colleges;

"(iv) teaching faculty;

"(v) financial experts from the private sector;

"(vi) students;

"(vii) the Office of Education; and

"(viii) other appropriate fields.

"(b) The President shall designate one of the members to serve as Chairman and one to serve as Vice Chairman of the Commission.

"(c) The majority of the members of the Commission shall constitute a quorum, but a lesser number may conduct hearings.

"(d) The terms of office of the appointive members of the Commission shall expire after submission of the final report.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1219. There are hereby authorized to be appropriated $500,000 for the fiscal year 1972, and $1,000,000 for the fiscal year ending 1973, for the purpose of carrying out the provisions of this part."

TITLE IX—PROHIBITION OF DISCRIMINATION

SEC. 901. (a) No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance, except that this subsection shall not apply—

(1) to the undergraduate admissions policy of any institution of higher education,

(2) for seven years from the date an educational institution begins the process of changing from being an institution which admits only students of one sex to being an institution which admits students of both sexes, but only if it is carrying out a plan for such change which is approved by the Commissioner of Education, or

(3) to an educational institution which is controlled by a religious organization and where the application of this subsection would not be consistent with the religious tenets of such organization.

(b) Nothing contained in subsection (a) of this section shall be interpreted to require any educational institution to grant preferential or disparate treatment to the members of one sex on account of an imbalance which may exist with respect to the total

number or percentage of persons of that sex participating in or receiving the benefits of any federally supported program or activity, in comparison with the total number or percentage of persons of that sex in any community, State, section, or other area: *Provided*, That this subsection shall not be construed to prevent the consideration in any hearing or proceeding under this title of statistical evidence tending to show that such an imbalance exists with respect to the participation in, or receipt of the benefits of, any such program or activity by the members of one sex.

(c) For purposes of this section an educational institution means any pre-school, elementary or secondary school, or any institution of higher education, except that in the case of an institution of higher education composed of more than one school or college which is an administratively separate unit, such term means each such school or college.

SEC. 902. Each Federal department and agency which is empowered to extend Federal financial assistance to any education program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of section 901 with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. No such rule, regulation, or order shall become effective unless and until approved by the President. Compliance with any requirement adopted pursuant to this section may be effected (1) by the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding on the record, after opportunity for hearing, of a failure to comply with such requirement, but such termination or refusal shall be limited to the particular political entity, or part thereof, or other recipient as to whom such a finding has been made and, shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found, or (2) by any other means authorized by law: *Provided, however*, That no such action shall betaken until the department or agency concerned has advised the appropriate person or persons of the failure to comply with the requirement and has determined that compliance cannot be secured by voluntary means. In the case of any action terminating, or refusing to grant or continue, assistance because of failure to comply with a requirement imposed pursuant to this section, the head of the Federal department or agency shall file with the committees of the House and Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action. No such action shall become effective until thirty days have elapsed after the filing of such report.

SEC. 903. Any department or agency action taken pursuant to section 902 shall be subject to such judicial review as may otherwise be provided by law for similar action taken by such department or agency on other grounds. In the case of action, not otherwise subject to judicial review, terminating or refusing to grant or to continue financial assistance upon a finding of failure to comply with any requirement imposed pursuant to section 902, any person aggrieved (including any State or political subdivision thereof and any agency of either) may obtain judicial review of such action in accordance with chapter 7 of title 5, United States Code, and such action shall not be deemed committed to unreviewable agency discretion within the meaning of section 701 of that title.

SEC. 904. Nothing contained in this title shall be construed to authorize action under this title by any department or agency with respect to any employment practice of any employer, employment agency or labor organization except where a primary objective of the Federal financial assistance is to provide employment.

SEC. 905. Nothing in this title shall add to or detract from any existing authority with respect to any program or activity under which Federal financial assistance is extended by way of a contract of insurance or guaranty.

SEC. 906. No person in the United States shall, on the ground of blindness or severely impaired vision, be denied admission in any course of study by a recipient of Federal financial assistance for any education program or activity: *Provided, however*, That nothing herein shall be construed to require any such institution to provide any special services to such person because of his blindness or visual impairment.

SEC. 907. (a) Clause (1) of section 701(b) of the Civil Rights Act of 1964 is amended by inserting after "thereof" the following: "(except with respect to employees of a State, or a political subdivision thereof, employed in an educational institution)".

(b) Section 702 of title VII of the Civil Rights Act of 1964 is amended by the insertion of a period after "religious activities" and the deletion of the remainder of the sentence.

SEC. 908. Section 13(a) of the Fair Labor Standards Act of 1938 is amended by the insertion after the words "the provisions of sections 6" of the following: "(except section 6(d) in the case of paragraph (1))."

SEC. 909. (a) Subsection (1) of section 3 (r) of the Fair Labor Standards Act of 1938 is amended by the deletion of the words "an elementary or secondary school" and the insertion of the words "a pre-school, elementary or secondary school".

(b) Section 3(s)(4) of such Act is amended by deleting "an elementary or secondary school" and inserting "a pre-school, elementary or secondary school".

SEC. 910. Notwithstanding anything to the contrary contained in this title, nothing contained herein shall be construed as to prohibit any educational institution receiving funds under this Act, from maintaining separate living facilities for the different sexes.

TITLE X—IMPROVEMENT OF MINERAL CONSERVATION EDUCATION

SEC. 1001. The Higher Education Act of 1965 adding after title XII the following new title:

"TITLE XIII—IMPROVEMENT OF MINERAL CONSERVATION EDUCATION

"SEC. 1301. The Congress, in recognition of the profound impact of mineral exploration and development on the health and safety of persons working in the mineral industries and on the interrelations of all facets of the natural environment, including, but not limited to, ground subsidence, mine fires, air and water resources, and fish and wildlife, and on outdoor recreation, aesthetic, agricultural, and other similar values of national, regional, and local significance, and in recognition of the fact that the prosperity and future welfare of the Nation is dependent, in large measure, on the sound exploration, extraction, processing, and development of its unrenewable mineral resources, declares that it is the purpose of this title to assist in assuring the Nation, at all times, of an adequate supply of mineral engineers and scientists (a) for the mineral industries engaged in research, investigations, experiments, demonstrations, exploration, extraction, processing, developing, and production of such resources in a manner consistent with the need to protect and enhance the quality of the total environment, and (b) for the public agencies concerned with such mineral activities, with the health and safety of persons employed in such industries, and with the protection and enhancement of the total environment.

"SEC. 1302. (a) The Commissioner is authorized to make, in accordance with the provisions of this title, grants each fiscal year, for establishing and carrying out the work of a competent and qualified mineral resources conservation institute, center, or equivalent agency (hereinafter referred to as an 'institute'), to such institutions of higher education as he may select, not to exceed ten in the Nation, and selected so as to serve the needs of a region, which shall be an institution of higher education established in accordance with sections 1 through 5, 7, and 8, of the Act of July 2, 1862, as amended (7 U.S.C. 30–305, 307 and 308), or some other institution of higher education designated by the Governor of the State within which the institution is located. Institutions of higher education selected under this subsection are encouraged to cooperate with other such institutions in participating in the work of the institute.

"(b) The Commissioner shall approve any application or any modification thereof submitted annually under this section by a designated institute, which he finds, in consultation with the Secretary of the Interior—

"(1) sets forth a plan to provide for the training, consistent with the purpose of this title, of individuals as mineral engineers and scientists under a four-year undergraduate curriculum appropriate to the field of mineral resources and mineral engineering and related fields of environmental control, and to conduct competent research, investigations, demonstrations, and experiments of either a basic or practical nature, or both, in relation to the exploration, extraction, processing, development, and conservation of mineral resources, to the solution of current and emerging problems of minerals technology, and to the protection and enhancement of health and safety of persons employed in the minerals industries and of the total environment affected by mineral operations;

"(2) gives assurances that such institute has or will promptly employ an adequate and competent faculty and administrative personnel;

"(3) sets forth policies and procedures which assure that Federal funds made available under this title for any fiscal year will be so used as to supplement and, to the extent practicable, increase the level of funds that would, in the absence of such Federal funds, be made available for purposes of this title, and in no case supplant such funds;

"(4) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this title;

"(5) provides for making such reports, in such form and containing such information, as the Commissioner may require, in consultation with the Secretary of the Interior and for keeping such records and for affording access thereto; and

"(6) meet such additional conditions and regulations as the Commissioner may from time to time prescribe consistent with the purpose of this title.

"(c) In approving applications under subsection (b) of this section, the Commission shall require the institute to show that its program of mineral research, investigations, demonstrations, and experimental projects has been developed so as to avoid, having due regard to the varying conditions and needs of each State or region, (1) undue displacement of mineral scientists and engineers engaged in such activities, and (2) duplication, to the greatest extent possible, of such mineral projects conducted or being conducted by Federal or State agencies or other institutes.

"(d) There are authorized to be appropriated to the Commissioner for grants under this section for the fiscal year 1972, and for each succeeding fiscal year ending prior to July 1, 1976, such sums as may be necessary to pay not to exceed $500,000 annually

of the estimated cost of establishing and carrying out the work of an institute. The Commissioner shall provide for an equitable distribution of sums appropriated for such grants. Such sums shall remain available until expended. The institute shall assume indirect costs. A minimum of 20 per centum of such grant shall be designated for scholarships, graduate fellowships, and postdoctoral fellowships.

"SEC. 1303. (a) There are authorized to be appropriated to the Commissioner for fiscal year 1972 and for each of the succeeding fiscal years ending prior to July 1, 1976, not to exceed $5,000,000 annually. Such sums shall remain available until expended for grants to institutes designated under this title where there is an application approved under this title to match, on a dollar-for-dollar basis, funds made available to such institutes by State or other non-Federal sources to pay the costs of conducting specific mineral research and demonstration projects of industrywide application relating (1) to the conservation, exploration, extraction, processing, development, or production of mineral resources, including but not limited to, the recycling and reuse of such resources and the products and wastes thereof, and (2) to the protection or enhancement of health and safety of persons employed in the minerals industries and of the environment in connection with mineral operations. The Commissioner shall provide for an equitable distribution of the sums appropriated among institutes for which an application is approved under section 1302 of this title.

"(b) Each application for a grant under this section and section 1304 of this title shall, among other things, state the nature of the project to be undertaken, the period during which it will be pursued, the qualification of the personnel who will direct and conduct it, the estimated cost, the extent of participation by nongovernmental sources in the project, including the identification of the participants, the importance of the project to the Nation, region, or State, and its relation to other known research projects theretofore pursued or being pursued. The Secretary of the Interior shall review each such application and shall make recommendations thereon to the Commissioner within thirty days after receipt of such application concerning the adequacy and merit of the project, the knowledge which it is expected to produce when completed, and such other matters as he deems appropriate. The Commissioner shall not make any grant for a project which the Secretary of the Interior recommends disapproval of, or which, in the judgment of the Commissioner, does not provide an adequate opportunity to train individuals as mineral engineers and scientists consistent with the purpose of this title.

"(c) In making grants under this section, the Commissioner shall prescribe such terms and conditions consistent with the purpose of this title.

"SEC. 1304. There are authorized to be appropriated to the Commissioner $10,000,000 for the fiscal year 1972, and increasing $2,000,000, annually for four years, from which he may, in consultation with the Secretary of the Interior, make grants or contracts with any educational institution to undertake mineral research and demonstration projects consistent with the purposes and applicable provisions of this title.

"SEC. 1305. No research, demonstrations, or experiments shall be carried out under this title by an institute financed by grants under this title, unless all information, uses, products, processes, patents, and other developments resulting therefrom (with such exception or limitation, if any, as the Commissioner may find to be necessary in the public interest) be made available promptly to the general public. Funds appropriated under this title shall be available for printing and publishing the results of activities carried out with the assistance of such funds by institutes and for administrative planning and direction.

"SEC. 1306. To assure that any institute established under this title is adequately equipped to train individuals, the Commissioner may make grants to each institute to pay 50 per centum of the cost of purchasing equipment and supplies. The equipment and supplies so purchased shall be used primarily for the education and training of individuals consistent with the purposes of this title. No portion of any such grant shall be applied to the acquisition by purchase or lease of any land or interests therein or the rental, purchase, construction, preservation, or repair of any building. There are hereby authorized to be appropriated not to exceed $5,000,000 for the fiscal year 1972 and each succeeding fiscal year ending prior to July 1, 1976, to remain available until expended, to carry out the purposes of this section.

"SEC. 1307. (a) The Commissioner shall appoint an advisory committee on mineral research composed of—

"(1) the Director of the National Science Foundation, or his delegate, with his consent;

"(2) the President, National Academy of Sciences or his delegate, with his consent;

"(3) the President, National Academy of Engineering, or his delegate, with his consent;

"(4) the Director, Bureau of Mines, or his delegate, with his consent; and

"(5) such other persons as the Commissioner may appoint who are knowledgeable in the field of mineral research and its impact on health and safety and the quality of the environment.

"(b) The Commissioner shall designate the chairman of the committee. The advisory committee shall consult with, and make recommendations to, the Commissioner and the Secretary of the Interior on matters involving or relating to the purpose of this title. The Commissioner and the Secretary of the Interior shall consult with, and consider recommendations of, such committee in the conduct of mineral research and development and the making of any grant under this title."

TITLE XI—SPECIAL ASSISTANCE FOR THE COLLEGE OF THE VIRGIN ISLANDS AND THE UNIVERSITY OF GUAM

SEC. 1101. In order to enable the Commissioner of Education to make grants to the College of the Virgin Islands and the University of Guam in recognition of the fact that such institutions and the areas they serve do not receive the support afforded land-grant colleges, there is authorized to be appropriated the sum of $3,000,000 for each such institution to be used as an endowment, and the sum of $450,000 for each such institution for the fiscal year 1973, and each succeeding fiscal year, for strengthening higher education, including community service programs, in the areas they serve.

TITLE XII—EVALUATION

SEC. 1201. The Higher Education Act of 1965 is amended by inserting after title XIII the following new title:

TITLE XIV—EVALUATION OF FEDERAL EDUCATION PROGRAMS

"SEC. 1401. (a) The Comptroller General of the United States shall review, audit, and evaluate any Federal education program upon request by a committee of the Congress having jurisdiction of the statute authorizing such program or, to the extent personnel are available, upon request by a member of such committee. Upon such request, he shall (1) conduct studies of statutes and regulations governing such Federal education program; (2) review the policies and practices of Federal agencies administering such program; (3) review the evaluation procedures adopted by such agencies carrying out such program; and (4) evaluate particular projects or programs. The Comptroller General shall compile such data as are necessary to carry out the preceding functions and shall report to the Congress at such times as he deems appropriate his findings with respect to such Federal education program and his recommendations for such modifications in existing laws, regulations, procedures and practices as will in his judgment best serve to carry out effectively and without duplication the policies set forth in education legislation relative to such program.

"(b) In carrying out his responsibilities as provided in subsection (a) of this section, the Comptroller General shall give particular attention to the practice of Federal agencies of contracting with private firms, organizations and individuals for the provision of a wide range of studies and services (such as personnel recruitment and training, program evaluation, and program administration) with respect to Federal education programs, and shall report to the heads of the agencies concerned and to the Congress his findings with respect to the necessity for such contracts and their effectiveness in serving the objective established in education legislation.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1402. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this title."

TITLE XIII—NATIONAL INSTITUTE OF EDUCATION

SHORT TITLE

SEC. 1301. This title may be cited as the "National Institute of Education Act".

FINDINGS AND DECLARATION OF POLICY

SEC. 1302. (a) (1) The Congress hereby declares it to be the policy of the United States to provide to every person an equal opportunity to receive an education of high quality regardless of his race, color, religion, sex, national origin, or social class. Although the American educational system has pursued this objective, it has not attained it. Inequalities of opportunity to receive high quality education remain pronounced. To achieve quality will require far more dependable knowledge about the processes of learning and education than now exists or can be expected from present research and experimentation in this field. While the direction of the education system remains primarily the responsibility of State and local governments, the Federal Government has a clear responsibility to provide leadership in the conduct and support of scientific inquiry into the educational process.

(2) The Congress further declares it to be the policy of the United States to—

(i) help to solve or to alleviate the problems of, and promote the reform and renewal of American education;

(ii) advance the practice of education, as an art, science, and profession;

(iii) strengthen the scientific and technological foundations of education; and

(iv) build an effective educational research and development system.

(b) The purpose of this title is to establish a National Institute of Education to conduct and support educational research and development and disseminate education research and development findings throughout the Nation.

ESTABLISHMENT OF NATIONAL INSTITUTE OF EDUCATION

SEC. 1303. There is established in the Department of Health, Education, and Welfare a National Institute of Education (hereinafter referred to as the "Institute"). The Institute shall be headed by a Director who shall be appointed by the President with the advice and consent of the Senate. The Director shall perform such duties as are prescribed by the Secretary of Health, Educa-

tion, and Welfare (hereinafter referred to as the "Secretary") and shall be responsible to such Secretary and not to or through any other officer of that Department. The Director shall not delegate any of his functions to any other officer who is not directly responsible to him. The Director shall receive compensation at the rate prescribed for the Commissioner of Education.

FUNCTIONS OF THE INSTITUTE

SEC. 1304. (a) The Director, through the Institute, shall conduct educational research; collect and disseminate the findings of educational research; train individuals in educational research; assist and foster such research, collection, dissemination, or training through grants or technical assistance to, or jointly financed cooperative arrangements with, public or private organizations, institutions, agencies, or individuals; promote the coordination of such research and research support within the Federal Government; and may construct or provide (by grant or otherwise) for such facilities as he determines may be required to accomplish such purposes. As used in this Act the term "educational research" includes but is not limited to research (basic and applied), planning surveys, evaluations, investigations, experiments, developments, and demonstrations.

(b) Not less than 90 per centum of the funds appropriated under section 1308 for a fiscal year shall be expended to carry out this title through grants or contracts with qualified public or private agencies and individuals.

EMPLOYMENT OF PERSONNEL

SEC. 1305. The Secretary may appoint and fix the compensation of such officers and employees as may be necessary to carry out such purposes. Such officers and employees shall be appointed in accordance with chapter 51 of title 5, United States Code.

NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH AND DEVELOPMENT

SEC. 1306. (a) The President shall appoint a National Advisory Council on Educational Research and Development which shall—

(1) review and advise the Secretary and the Director on the status of education, educational research and the prospective educational needs of our society;

(2) advise the Secretary and the Director of the Institute on development of programs to be carried out by the Institute and on matters of general policy arising in the administration of this title;

(3) present to the Secretary and the Director such recommendations as it may deem appropriate for the strengthening of educational research, the improvement of methods of collecting and disseminating the findings of educational research and of insuring the implementation of educational renewal and reform based upon the findings of educational research;

(4) conduct such studies as may be necessary to fulfill its functions under this section;

(5) prepare an annual report to the Secretary on the current status and needs of educational research in the United States;

(6) submit an annual report to the President on the activities of the Institute, and on education and educational research in general, (A) which shall include such recommendations and comments as the Council may deem appropriate, and (B) shall be submitted to the Congress not later than March 31 of each year; and

(7) meet at the call of the Chairman, except that it shall meet (A) at least four times during each fiscal year, or (B) whenever one-third of the members request in writing that a meeting be held.

(b) The Council shall be appointed by the President and shall consist of fifteen members appointed for terms of three years; except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessors was appointed shall be appointed for the remainder of such term, and (2) the terms of office of the members first taking office shall begin upon enactment of this title and shall expire as designated at the time of appointment, five at the end of three years, five at the end of two years, and five at the end of the first year. One of such members shall be designated by the President as Chairman. Members of the Council who are not regular full-time employees of the United States shall, while serving on the business of the Council, be entitled to receive compensation at rates to be determined by the Secretary, but not exceeding the per diem equivalent for GS–18 for each day so engaged, including travel time and, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently. The Director of the Institute and the Commissioner of Education shall serve on the Council ex officio.

(c) The Secretary shall provide to the Council such professional, clerical, and other assistance as may be required to carry out its functions.

(d) The President may also appoint other Federal officials as non-voting ex officio members.

(e) The Council is further authorized to obtain services in accordance with the provisions of section 3109 of title 5, United States Code, and it may enter into contracts for the conduct of studies and other activities necessary to the discharge of its duties.

GENERAL PROVISIONS

SEC. 1307. (a) The Director, in order to carry out the purposes of this title, is authorized—

(1) to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of operation of the Institute;

(2) to accept unconditional gifts or donations of services, money or property, real, personal or mixed, tangible or intangible;

(3) without regard to section 529 of title 31, United States Code, to enter into and perform such contracts, leases, cooperative agreements or other transactions as may be necessary for the conduct of the Institute's work and on such terms as he may deem appropriate with any agency or instrumentality of the United States, or with any State, territory or possession, or with any political subdivision thereof, or with any international organization or agency, or with any firm, association, corporation or educational institution, or with any person, without regard to statutory provisions prohibiting payment of compensation to aliens;

(4) to acquire (by purchase, lease, condemnation or otherwise), construct, improve, repair, operate and maintain laboratories, research and testing facilities, computing devices, communications networks and machinery, and such other real and personal property or interest therein as deemed necessary;

(5) to acquire (by purchase, lease, condemnation or otherwise) and to lease to others or to sell such property in accordance with the provisions of the Federal Property and Administrative Services Act, patents, copyrights, computing programs, theatrical and broadcast performance rights or any form of property whatsoever or any rights thereunder; and

(6) to use the services, computation capacity, communications networks, equipment, personnel, and facilities of Federal and other agencies with their consent, with or without reimbursement. Each department and agency of the Federal Government shall cooperate fully with the Director in making its services, equipment, personnel and facilities available to the Institute.

(b) All laborers and mechanics employed by contractors or subcontractors on all construction projects assisted under this title shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a–5a). The Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 133z–15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276(c)).

JOINT FUNDING WAIVER AUTHORITY

SEC. 1308. Where funds are advanced for a single project by more than one Federal agency for the purposes of this title, the National Institute of Education may act for all in administering the funds advanced and any such agency may waiver any technical grant or contract requirement which is inconsistent with the similar requirements of the National Institute or which the National Institute does not impose.

APPROPRIATIONS AUTHORIZED

SEC. 1309. There are authorized to be appropriated for the fiscal year 1972, and for each fiscal year thereafter, such sums as may be necessary to carry out this title, which shall remain available until expended.

TITLE XIV—OCCUPATIONAL EDUCATION

SEC. 1401. This title may be cited as the "Occupational Education Act of 1971".

FINDINGS AND STATEMENT OF PURPOSES

SEC. 1402. The Congress finds and declares that—

(a) our educational system should be responsible for assuring that every young person leaving secondary school is prepared for and assisted in placement either in productive employment or in further education at the postsecondary level;

(b) the opportunity for postsecondary occupational education in programs which do not directly lead to a baccalaureate or advanced academic degree is severely limited in many parts of the Nation and is everywhere inadequate to meet existing needs, and that this situation adversely affects vital national economic and social goals;

(c) high-quality programs of postsecondary occupational education can be found in a wide variety of institutions, including public and private community and junior colleges, area vocational schools, technical institutes, private proprietary schools, college and university branches, and colleges and universities, and Federal support should encourage the utilization of all such facilities to meet the enormous needs in this field;

(d) the goals and purposes of the Congress in enacting the Vocational Education Act of 1963 and the amendments to that Act of 1968 cannot be realized until there is a widespread understanding of and support for occupational preparation in the general academic community which in turn is reflected in changed attitudes, curriculums, and practices in elementary and secondary schools; and

(e) the foregoing purposes and those of the Vocational Education Act Amendments of 1968 and related Acts cannot be realized without strong leadership and exemplary administration at the Federal level.

AUTHORIZATION OF APPROPRIATIONS

SEC. 1403. For the purpose of carryring out part A of this title, there are hereby authorized to be appropriated $100,000,000 for the fiscal year 1972, $250,000,000 for the fiscal year 1973, $500,000,000 for the fiscal year 1974, and for each fiscal year thereafter such sums as may be necessary to assure that the purposes of this title are realized. From the sums appropriated for the fiscal year 1972, 80 per centum shall be available for the purposes of establishing a plan for administra-

tion under section 1413, making planning grants under section 1415, and for initiating programs under section 1416 in those States which have complied with the planning requirements of section 1415; and 20 per centum shall be available only for technical assistance under section 1418(a). From the amount appropriated for each succeeding fiscal year 85 per centum shall be available for grants to the States for carrying out part A, and 15 per centum shall be reserved to the Commissioner for grants and contracts pursuant to section 1418.

ALLOTMENTS AND REALLOTMENTS AMONG STATES

SEC. 1404. (a) From the sums available for the fiscal year 1972, for allotment to the States under section 1403 the Commissioner shall first allot such sums as they may require (but not to exceed $50,000 each) to American Samoa and the Trust Territory of the Pacific Islands. From the remainder of such sums he shall allot to each State an amount which bears the same ratio to such remainder as the number of persons sixteen years of age or older in such State bears to the number of such persons in all the States, except that the amount allotted to each State shall not be less than $100,000.

(b) From the sums available for any fiscal year beginning after June 30, 1972, for allotment to the States under section 1403, the Commissioner shall first allot such sums as they may require (but not to exceed $500,000 each) to American Samoa and the Trust Territory of the Pacific Islands. From the remainder of such sums he shall allot to each State an amount which bears the same ratio to such remainder as the number of persons sixteen years of age or older in such State bears to the number of such persons in all the States, except that the amount allotted to each State shall not be less than $1,000,000.

(c) The portion of any State's allotment under subsection (a) or (b) for a fiscal year which the Commissioner determines will not be required, for the period such allotment is available, for carrying out the purposes of this title shall be available for reallotment from time to time, on such date or dates during such periods as the Commissioner may fix, to other States in proportion to the original allotments to such States under subsection (a) or (b) for such year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum which the Commissioner estimates such States needs and will be able to use for such period, and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts are not so reduced. Any amount realloted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) or (b) for such year.

PART A—OCCUPATIONAL EDUCATION PROGRAMS

FEDERAL ADMINISTRATION

SEC. 1410. The Secretary of Health, Education, and Welfare shall develop and carry out a program designed to promote and encourage occupational education, which program shall—

(1) provide for the administration by the Commissioner of Education of grants to the States authorized by this part;

(2) assure that manpower needs in subprofessional occupations in education, health, rehabilitation, and community and welfare services are adequately considered in the development of programs under this title;

(3) promote and encourage the coordination of programs developed under this title with those supported under the Vocational Education Act 1963, the Manpower Development and Training Act 1962, title I of the Economic Opportunity Act 1964, the Public Health Service Act, and related activities administered by various departments and agencies of the Federal Government; and

(4) provide for the continuous assessment of needs in occupational education and for the continuous evaluation of programs supported under the authority of this title and of related Acts.

GENERAL RESPONSIBILITIES OF COMMISSIONER OF EDUCATION

SEC. 1411. The Commissioner of Education shall, in addition to the specific responsibilities imposed by this title, develop and carry out a program of occupational education that will—

(1) coordinate all programs administered by the Commissioner which relate to or have an effect upon occupational education so as to provide the maximum practicable support for the objectives of this title;

(2) promote and encourage the infusion into our system of elementary and secondary education of occupational preparation, counseling and guidance, and job placement or placement in postsecondary occupational educational programs as a responsibility of the schools;

(3) utilize research and demonstration programs administered by him to assist in the development of new and improved instructional methods and technology for occupational education and in the design and testing of models of schools or school systems which place occupational education on an equal footing with academic education;

(4) assure that the Education Professions Development Act and similar programs of general application will be so administered as to provide a degree of support for vocational, technical, and occupational education commensurate with national needs and more nearly representative of the relative size of the population to be served; and

(5) develop and disseminate accurate information on the status of occupational education in all parts of the Nation, at all levels of education, and in all types of institutions, together with information on occupational opportunities available to persons of all ages.

ESTABLISHMENT OF BUREAU OF OCCUPATIONAL EDUCATION

SEC. 1412. (a) There is hereby established in the United States Office of Education a Bureau of Occupational Education which shall be the principal agency within the Office of Education for the administration of this title, the Vocational Education Act of 1963 including parts C and I, the Adult Education Act of 1966, functions of the Office of Education relating to manpower training and development, and functions of the Office relating to vocational, technical, and occupational training in community and junior colleges.

(b) (1) The Bureau shall be headed by a person (appointed or designated by the Commissioner) who is highly qualified in the fields of vocational, technical, and occupational education, who is accorded the rank of Deputy Commissioner.

(2) Additional positions shall be assigned to the Bureau as follows—

(A) not less than three positions, one of which shall be filled by a person with broad experience in the field of community and junior college education;

(B) not less than seven positions, at least two of which shall be filled by persons with broad experience in the field of postsecondary occupational education in community and junior colleges, at least one of which shall be filled by a person with broad experience in education in private proprietary institutions, and at least one of which shall be filled by a person with professional experience in occupational guidance and counseling; and

(C) not less than three positions which shall be filled by persons at least one of whom is a skilled worker in a recognized occupation, another is a subprofessional technician in one of the branches of engineering, and the other is a subprofessional worker in one of the branches of social or medical services, who shall serve as senior advisers in the implementation of this title.

STATE ADMINISTRATION

SEC. 1413. (a) Any State desiring to participate in the program authorized by this title shall in accordance with State law designate or establish a State agency which will have sole responsibility for fiscal management and administration of the program, and which will provide assurances satisfactory to the Commissioner that—

(1) such State agency shall submit to the Commissioner a plan of administration which makes adequate provision for effective participation in the planning, design, administration, and evaluation of the program authorized by this title of persons with broad experience in the fields of—

(A) public and private community and junior college education,

(B) postsecondary vocational and technical education,

(C) occupational education in private, proprietary institutions,

(D) economic and industrial development,

(E) manpower development and training,

(F) academic education at the college and university level,

(G) secondary vocational and technical education,

(H) elementary and secondary education,

(I) elementary and secondary counseling and guidance, and

(J) industry, commerce, and labor.

(2) the State Advisory Council for Vocational Education will be charged with the same responsibilities with respect to the program authorized by this title as it has with respect to programs authorized under the Vocational Education Act of 1963;

(3) there is an administrative device which provides reasonable promise for resolving differences between vocational educators, community and junior college educators, college and university educators, elementary and secondary educators, and other interested groups with respect to the administration of the program authorized under this title; and

(4) there is adequate provision for individual institutions or groups of institutions and for local educational agencies to appeal and obtain a hearing from the State administrative agency with respect to policies, procedures, programs, or allocation of resources under this title with which such institution or institutions or such agency disagree.

(b) The Commissioner shall approve any plan of administration which meets the requirements of subsection (a), and shall not finally disapprove any plan without affording the State administrative agency a reasonable opportunity for a hearing. Upon the final disapproval of any plan, the provisions for judicial review set forth in section 1417 (b) shall be applicable.

AUTHORIZATION OF GRANTS FOR STATE OCCUPATIONAL EDUCATION PROGRAMS

SEC. 1414. From the sums made available for grants under this section pursuant to sections 1403 and 1404, the Commissioner is authorized to make grants to the States to assist them in planning and administering high-quality programs of post-secondary occupational education which will be available to all persons in all parts of the State who desire and need such education, and to promote occupational orientation and education in the regular elementary and secondary school programs.

PLANNING GRANTS FOR STATE OCCUPATIONAL EDUCATION PROGRAMS

SEC. 1415. (a) Upon the application of a State under section 1413, the Commissioner shall make available to the State the amount of its allotment under section 1404 for the following purposes—

(1) to assist the State administrative agency established in meeting the requirements of section 1413;

(2) to strengthen the State Advisory Council on Vocational Education in order that it may effectively carry out the additional functions imposed by this title; and

(3) to enable the agency designated or established under section 1413 to initiate and conduct a comprehensive program of planning for the establishment and carrying out of the program authorized by this title.

(b)(1) Planning activities initiated under clause (3) of subsection (a) shall include—

(A) an assessment of the existing capabilities and facilities for the provision of post-secondary occupational education, together with existing needs and projected needs for such education in all parts of the State;

(B) thorough consideration of the most effective means of utilizing all existing institutions within the State capable of providing the kinds of programs funded under this title, including (but not limited to) both private and public community and junior colleges, area vocational schools, accredited private proprietary institutions, technical institutes, manpower skill centers, branch institutions of State colleges or universities, and public and private colleges and universities;

(C) the design of high-quality instructional programs to meet the needs for post-secondary occupational education and the development of an order of priorities for placing these programs in operation;

(D) the development of a long-range strategy for infusing occupational education (including general orientation, counseling and guidance, and placement either in a job or in post-secondary occupational programs) into elementary and secondary schools on an equal footing with traditional academic education, to the end that every child who leaves secondary school is prepared either to enter productive employment or to undertake additional education at the postsecondary level, but without being forced prematurely to make an irrevocable commitment to a particular educational or occupational choice; and

(E) the development of procedures to insure continuous planning and evaluation, including the regular collection of data which would be readily available to the State administrative agency, the State Advisory Council on Vocational Education, individual educational institutions, and other interested parties (including concerned private citizens).

(2) Planning activities carried out under this section shall involve the active participation of—

(A) the State board for vocational education;

(B) the State agency having responsibility for community and junior colleges;

(C) the State agency having responsibility for higher education institutions or programs;

(D) the State agency responsible for administering public elementary and secondary education;

(E) the State agency responsible for programs of adult basic education;

(F) representatives of all types of institutions in the State which are conducting or which have the capability and desire to conduct programs of postsecondary occupational education;

(G) representatives of private, nonprofit elementary and secondary schools;

(H) the State employment security agency, the State agency responsible for apprenticeship programs, and other agencies within the State having responsibility for administering manpower development and training programs;

(I) the State agency responsible for economic and industrial development;

(J) persons familiar with the occupational education needs of the disadvantaged, of the handicapped, and of minority groups; and

(K) representatives of business, industry, organized labor, and the general public.

(c) The Commissioner shall not approve any application for a grant under section 1416 of this title unless he is reasonably satisfied that the planning described in this section (whether or not assisted by a grant under this section) has been carried.

PROGRAM GRANTS FOR STATE OCCUPATIONAL EDUCATIONAL PROGRAMS

SEC. 1416. (a) From the allotments available to the States under section 1404(b) (upon application by the State administrative agency designated or established under section 1413), the Commissioner shall make grants to any State which has satisfied the requirements of section 1417. Such grants may be used for the following purposes—

(1) the design, establishment, and conduct of programs of post-secondary occupational education (or the expansion and improvement of existing programs) as defined by section 1420 of this title;

(2) the design, establishment, and conduct of programs to carry out the long-range strategy developed pursuant to section 1415(b)(1)(D) for infusing into elementary and secondary education occupational preparation, which shall include methods of involving secondary schools in occupational placement and methods of providing followup services and career counseling and guidance for persons of all ages as a regular function of the educational system;

(3) special training and preparation of persons to equip them to teach, administer, or otherwise assist in carrying out the program authorized under this title (such as programs to prepare journeymen in the skilled trades or occupations for teaching positions);

(4) planning and evaluation activities designed pursuant to section 1415(b)(1)(E); and

(5) the leasing, renting, or remodeling of facilities required to carry out the program authorized by this title. (b) Programs authorized by this title may be carried out through contractual arrangements with private organizations and institutions organized for profit where such arrangements can make a contribution to achieving the purposes of this title by providing substantially equivalent education, training or services more readily or more economically, or by preventing needless duplication of expensive physical plant and equipment, or by providing needed education or training of the types authorized by this title which would not otherwise be available.

ASSURANCES; JUDICIAL REVIEW

SEC. 1417. (a) Before making any program grant under this title the Commissioner shall receive from the State administrative agency assurances satisfactory to him that—

(1) the planning requirements of section 1415 have been met;

(2) the State Advisory Council on Vocational Education has had a reasonable opportunity to review and make recommendations concerning the design of the programs for which the grant is requested;

(3) Federal funds made available under this title will result in improved occupational education programs, and in no case supplant State, local, or private funds;

(4) adequate provision has been made by such agency for programs described in section 1416(a)(2);

(5) provision has been made for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the State under this title;

(6) to the extent consistent with the number of students enrolled in nonprofit private schools in the area to be served by an elementary or secondary school program funded under this title, provision has been made for the effective participation of such students; and

(7) reports will be made in such form and containing such information as the Commissioner may reasonably require to carry out his functions under this title.

(b)(1) Whenever the Commissioner, after reasonable notice and opportunity for a hearing to the State administrative agency, finds that any of the assurances required by subsection (a) are unsatisfactory, or that in the administration of the program there is a failure to comply with such assurances or with other requirements of the title, the Commissioner shall notify the administrative agency that no further payments will be made to the State under this title until he is satisfied that there has been or will be compliance with the requirements of the title.

(2) A State administrative agency which is dissatisfied with a final action of the Commissioner under this section or under section 1413 (respecting approval of a State plan for administration) may appeal to the United States court of appeals for the circuit in which the State is located by filing a petition with such court within sixty days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner, or any officer designated by him for that purpose. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part, temporarily or permanently but until the filing of the record the Commissioner may modify or set aside his action. The findings of the Commisisoner as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Commissioner shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this subsection shall not, unless so specifically ordered by the court, operate as a stay of the Commissioner's action.

TECHNICAL ASSISTANCE; MODEL PROGRAMS

SEC. 1418. (a) The Commissioner shall make available (to the extent practicable) technical assistance to the States in planning, designing, and carrying out the program authorized by this title upon the request of any State administrative agency designated or established pursuant to section 1413, and the Commissioner shall take affirmative steps to acquaint all interested organizations, agencies, and institutions with the provisions of this title and to enlist broad public understanding of its purposes.

(b) From the sums reserved to the Commissioner under section 1403, he shall by grant or contract provide assistance—

(1) for the establishment and conduct of of model or demonstration programs which in his judgment will promote the achievement of one or more purposes of this title and which might otherwise not be carried out (or be carried out soon enough or in such a way as to have the desirable impact upon the purposes of the title),

(2) as an incentive or supplemental grant to any State administrative agency which makes a proposal for advancing the purposes

of this title which he feels holds special promise for meeting occupational education needs of particular groups or classes of persons who are disadvantaged or who have special needs, when such proposal could not reasonably be expected to be carried out under the regular State program; and

(3) for particular programs or projects eligible for support under this title which he believes have a special potential for helping to find solutions to problems on a regional or national basis.

(c) In providing support under subsection (b) the Commissioner may as appropriate make grants to or contracts with public or private agencies, organizations, and institutions, but he shall give first preference to applications for projects or programs which are administered by or approved by State administrative agencies, and he shall in no case make a grant or contract within any State without first having afforded the State administrative agency reasonable notice and opportunity for comment and for making recommendations.

PAYMENTS

SEC. 1419. Payments under this title may be made in installments and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

DEFINITIONS

SEC. 1420. For the purpose of this title—

(1) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and (except for the purposes of subsections (a) and (b) of section 1404) American Samoa and the Trust Territory of the Pacific Islands.

(2) The term "post-secondary occupational education" means education, training, or retraining (and including guidance, counseling, and placement services) for persons sixteen years of age or older who have graduated from or left elementary or secondary school, conducted by an institution legally authorized to provide post-secondary education within a State, which is designed to prepare individuals for gainful employment as semiskilled or skilled workers or technicians or subprofessionals in recognized occupations (including new and emerging occupations) or to prepare individuals for enrollment in advanced technical education programs, but excluding any program to prepare individuals for employment in occupations which the Commissioner determines, and specifies by regulation, to be generally considered professional or which require a baccalaureate or advanced degree.

PART B—CONFORMING AND SUPPORTING AMENDMENTS TO OTHER ACTS

SEC. 1430. (a) Section 203(a)(3) of the Elementary and Secondary Education Act of 1965 is amended by striking out "and" at the end of clause (B), striking out the semicolon at the end of clause (C) and inserting in lieu thereof ", and", and by inserting a new clause as follows:

"(D) provide assurance that equal consideration shall be given to the needs of elementary and secondary schools for library resources, textbooks, and other printed and published materials utilized for instruction, orientation, or guidance and counseling in occupational education."

(b) Section 303(b)(3) of such Act is amended by redesignating clauses (C), (D), (E), (F), (G), (H), (I), and (J), respectively, as clauses (D), (E), (F), (G), (H), (I), (J), and (K) and by inserting a new clause as follows:

"(C) programs designed to encourage the development in elementary and secondary schools of occupational information and counseling and guidance, and instruction in occupational education on an equal footing with traditional academic education;".

(c) Section 503(4) of such Act is amended by redesignating clauses (A), (B), and (C), respectively, as clauses (B), (C), and (D), and by inserting a new clause as follows:

"(A) the development in elementary and secondary schools of programs of occupational information, counseling and guidance, and instruction in occupational education on an equal footing with traditional academic education,".

SEC. 1431. (a) Section 104(a)(2) of the Vocational Education Act of 1963 (relating to the duties of the National Advisory Council on Vocational Education) is amended by inserting after "under this title" each time it appears ", and under part A of the Occupational Education Act of 1971,".

(b) Section 104 of such Act is further amended by redesignating subsection (c) as subsection (d) and by inserting a new subsection as follows:

"(c) State advisory councils also shall perform with respect to the programs carried out under part A of the Occupational Education Act of 1971 functions identical with or analogous to those assigned under this title, and the Commissioner shall assure that adequate funds are made available to such Councils from funds appropriated to carry out part A of that title (without regard to whether such funds have been allotted to States) to enable them to perform such functions."

TITLE XV—STATE POSTSECONDARY EDUCATION COMMISSIONS

SEC. 1501. (a) Any State may designate or create a State agency or commission which is broadly and equitably representative of the public and of the public and private nonprofit and proprietary institutions of postsecondary education including community and junior colleges, technical institutes, four year institutions of higher education and branches thereof providing postsecondary academic and/or vocational and occupational training, in the State.

(b)(1) The Commissioner is authorized to make grants to State agencies or commissions designated or created pursuant to subsection (a) to enable them to make comprehensive inventories of, and studies with respect to, the postsecondary educational resources in the States and means by which such resources may be better planned and coordinated, improved, expanded, or altered in order to insure that all persons within the States who desire, and who can benefit from, postsecondary education may have an opportunity to do so.

(2) The Commissioner is further authorized to make grants to such State agencies or commissions to enable them to conduct comprehensive planning for statewide postsecondary education systems which will achieve the purpose set forth in paragraph (1). Such planning shall include consideration of a system of community service institutions as a means of achieving such purpose.

(3) The Commissioner shall make technical assistance available to such State agencies or commissions to assist them in achieving the purposes set forth in paragraphs (1) and (2).

(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

SEC. 1502. (a) Each State agency or commission (established under section 1501) may establish a committee (hereinafter in this section referred to as the committee), the membership of which shall include representatives of—

(1) all State agencies having responsibility or an interest in postsecondary education;

(2) community and junior colleges, four-year institutions of higher education and branches thereof, technical institutes, proprietary institutions, vocational schools, comprehensive secondary schools, adult education agencies, and State manpower agencies providing postsecondary academic and/or vocational and occupational training; and

(3) the general public, labor unions, business and industry, and agriculture.

(b) The committee may develop and adopt a statewide plan for the expansion and improvement of community postsecondary education programs. Such plan may—

(1) designate areas of the State in which residents do not have access to occupational education, continuing education, and community service institutions of postsecondary education within reasonable commuting distance;

(2) designate areas of the State in which existing community service institutions cannot meet the postsecondary educational needs of the residents;

(3) set forth a statewide plan for the establishment, expansion, and improvement of comprehensive community service institutions in order to achieve the goal of making available to all residents of the States, within commuting distance, an opportunity to attend a postsecondary educational institution;

(4) establish priorities for the use of financial and other resources in achieving the goal set forth in clause (3);

(5) make recommendations with respect to adequate State and local financial support, within the priorities set forth pursuant to clause (4), for community service institutions of higher education;

(6) recommendations for coordination of duplicating programs in order to eliminate such duplications;

(7) set forth a plan for the use of existing and new educational resources in the State in order to achieve the goal set forth in clause (3), including recommendations for the modification of State plans for federally assisted vocational education, community services, and academic facilities as they may affect postsecondary education institutions.

(c)(1) There are hereby authorized to be appropriated $16,000,000 during the period beginning July 1, 1972, and ending July 1, 1974, to carry out the provisions of this title.

(2) Sums appropriated pursuant to paragraph (1) shall be equitably allotted by the Commissioner among the States on the basis of the amount needed by each State for the purpose of this section, except that no such allotment to any State shall be less than $100,000 except that in the case of American Samoa and the Trust Territory of the Pacific Islands such allotment shall not be more than $50,000 each. Such sums shall remain available until expended.

(d) For purposes of this title, the term "State" includes the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

TITLE XVI—INVESTIGATION OF YOUTH CAMP SAFETY

SEC. 1601. The Secretary of Health, Education, and Welfare shall make a full and complete investigation and study to determine (1) the extent of preventable accidents and illnesses currently occurring in youth camps throughout the Nation, (2) the contribution to youth camp safety now being made by State and local public agencies and private groups, (3) whether existing State and local laws adequately deal with the safety of campers in youth camps, (4) whether existing State and local laws relating to youth camp safety are being effectively enforced, and (5) the need for Federal laws in this field.

REPORT

SEC. 1602. The Secretary of Health, Education, and Welfare shall make a report to the Congress before January 1, 1973, on the results of his investigation and study under this title. Such report shall include his recommendations for such legislation as may be necessary or desirable.

AUTHORIZATION OF FUNDS

SEC. 1603. There is authorized to be appropriated $300,000 for carrying out the purposes of this title.

TITLE XVII—MISCELLANEOUS

SEC. 1701. Notwithstanding any other law or provision of law, in the case of any order on the part of any United States district court which requires the transfer or transportation of any student or students from any school attendance area prescribed by competent State or local authority for the purposes of achieving a balance among students with respect to race, sex, religion, or socioeconomic status, the effectiveness of such order shall be postponed until all appeals in connection with such order have been exhausted or, in the event no appeals are taken, until the time for such appeals has expired.

REDESIGNATION OF SECTIONS

SEC. 1702. Title XII of the Higher Education Act of 1964 is redesignated as title XVI, and sections 1201, 1202, 1204, and 1205 of such Act are redesignated as sections 1601, 1602, 1604, and 1605, respectively, and cross-references to such title and such sections are redesignated accordingly.

WAIVER OF MATCHING REQUIREMENT IN CERTAIN CASES

SEC. 1703. (a) Part A of the General Education Provisions Act is amended by adding at the end thereof the following:

"MODIFICATIONS OF MATCHING REQUIREMENTS

"SEC. 407. Where a provision of law relating to an applicable program limits the amount of Federal assistance which may be made available for carrying out the program to a specified portion of the cost thereof or requires a specified non-Federal contribution with respect to the program, the Commissioner may approve assistance to institutions of higher education (as defined in section 1601(a) of the Higher Education Act of 1965) for such program in excess of the portion so specified, or a lesser non-Federal contribution than that so specified, if he determines, in accordance with regulations establishing objective criteria, that such action is required in furtherance of the purposes of such applicable program."

(b) Part A of the General Educational Provisions Act is further amended by adding at the end thereof the following:

"PROHIBITION AGAINST USE OF APPROPRIATED FUNDS FOR BUSING

"SEC. 408. No funds appropriated for the purpose of carrying out any applicable program may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system. No officer or employee of the Department of Health, Education, and Welfare (including the Office of Education) or of any other Federal agency shall, by rule, regulation, order, guideline, or otherwise, (1) urge, persuade, induce, or require any local education agency, or any private nonprofit agency, institution, or organization, to use any funds derived from any State or local sources for any purpose for which Federal funds appropriated to carry out any applicable program may not be used, as provided in this section, or (2) condition the receipt of Federal funds under any Federal program upon any action by any State or local public officer or employee which would be prohibited by clause (1) on the part of a Federal officer or employee."

APPLICATION OF CERTAIN LAWS TO PUERTO RICO, GUAM, AND THE VIRGIN ISLANDS

SEC. 1704. (a) Section 103(a) of the Higher Education Act of 1965 is amended by striking out "each to Guam, American Samoa, the Commonwealth of Puerto Rico, and the Virgin Islands" and inserting in lieu thereof "to American Samoa".

(b) Section 513(c)(2) of such Act is amended (1) by striking out the first sentence and insertnig in lieu thereof the following: "Not to exceed 5 per centum of the number of members of the Teacher Corps who are available shall be allocated to the elementary and secondary schools operated for Indian children by the Department of the Interior.", and (2) by striking out the last sentence thereof.

(c)(1) The first sentence of section 519(a) of such Act is amended by striking out "among Puerto Rico, Guam, American Samoa, the Virgin Islands," and inserting in lieu thereof "between American Samoa".

(2) The last sentence of section 519(a) of such Act is amended by striking out "the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands," and inserting in lieu thereof "American Samoa".

(d) Section 602(a)(2) of such Act is amended by striking out "Puerto Rico, the Virgin Islands, American Samoa, and Guam" each time the phrase occurs and by inserting in lieu thereof "American Samoa".

(e) Section 103(d)(1) of the Higher Education Facilities Act of 1963 is amended by striking out "Puerto Rico, the Virgin Islands, American Samoa, and Guam" each time the phrase occurs and by inserting in lieu thereof "American Samoa".

(f) Section 103(a) of the National Defense Education Act of 1958 is amended by striking out "Puerto Rico, the Canal Zone, Guam, American Samoa, the Virgin Islands," and inserting in lieu thereof "the Canal Zone, American Samoa,".

(g) Section 302(a)(3)(B) of the National Defense Education Act of 1958 is amended by striking out "and the District of Columbia" and by inserting in lieu thereof ", the District of Columbia, Puerto Rico, Guam, and the Virgin Islands".

(h) Section 1008(A) of the National Defense Education Act of 1958 is amended by striking out "Puerto Rico, the Canal Zone, Guam, American Samoa, the Virgin Islands," and inserting in lieu thereof "the Canal Zone, American Samoa,".

(i) (1) Section 202(a)(1) of the Elementary and Secondary Education Act of 1965 is amended by striking out "among Puerto Rico, Guam, American Samoa, the Virgin Islands," and by inserting in lieu thereof "between American Samoa".

(2) The last sentence of section 202(a)(2) of such Act is amended by striking out "the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands," and inserting in lieu thereof "American Samoa".

(j)(1) Section 302(a)(1) of the Elementary and Secondary Education Act of 1965 is amended by striking out "among Puerto Rico, Guam, American Samoa, the Virgin Islands," and by inserting in lieu thereof "between American Samoa".

(2) The last sentence of section 302(a)(2) of such Act is amended by striking out "the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands," and inserting in lieu thereof "American Samoa".

(3) Section 307(b) of such Act is amended by striking out "the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands," each time the phrase occurs and inserting in lieu thereof "American Samoa".

(k)(1) Section 502(a)(1) of the Elementary and Secondary Education Act of 1965 is amended by striking out "the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands," each time the phrase occurs and by inserting in lieu thereof "American Samoa".

(2) Section 522(a) of such Act is amended by striking out "the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands," each time the phrase occurs and by inserting in lieu thereof "American Samoa".

(3) Section 531(c)(1) of such Act is amended by striking out "the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands," each time the phrase occurs and by inserting in lieu thereof "American Samoa".

SEC. 1705. All data, statistics, or other information required by the Secretary to make determinations with respect to entitlements to any moneys under the elementary and secondary grants shall be obtained by him from the appropriate State educational agency. The Secretary shall require such State educational agency to provide only such data, statistics, or other information to him as is or are essential to enable him to carry out his duties under this Act.

EFFECTIVE DATE

SEC. 1706. Except as otherwise provided in this Act, each of the provisions of this Act, and each amendment made by this Act, shall become effective July 1, 1972.

TITLE XVIII—EMERGENCY SCHOOL AID

SEC. 1801. This title may be cited as the "Emergency School Aid Act of 1971".

PURPOSE AND POLICY

SEC. 1802. (a) The purpose of this title is to provide financial assistance—

(1) to meet the special needs incident to the elimination of racial segregation and discrimination among students and faculty in elementary and secondary schools, and

(2) to encourage the voluntary elimination, reduction, or prevention of racial isolation in elementary and secondary schools with substantial proportions of minority group students.

(b) It is the policy of the United States that guidelines and criteria established pursuant to this title shall be applied uniformly in all regions of the United States in dealing with conditions of segregation by race in the schools of the local educational agencies of any State without regard to the origin or cause of such segregation.

APPROPRIATIONS

SEC. 1803. (a) There are authorized to be appropriated for carrying out this title not in excess of $500,000,000 for the fiscal year ending June 30, 1972, and not in excess of $1,000,000,000 for the succeeding fiscal year.

(b) Funds appropriated under subsection (a) shall remain available for obligation for one fiscal year beyond that for which they are appropriated.

(c) From the sums appropriated under subsection (a) for each fiscal year there shall be reserved to the Secretary an amount equal to not less than 4 per centum of the sums so appropriated for the purpose of carrying out bilingual education programs in accordance with section 1805(e).

ALLOTMENTS AMONG STATES

SEC. 1804. (a) From the sums appropriated pursuant to section 1803(a) for carrying out this title for any fiscal year, the Secretary shall allot an amount equal to 90 per centum among the States by allotting to each State $100,000 plus an amount which bears the same ratio to the balance of such 90 percentum of such sums as the aggregate number of children aged five to seventeen, inclusive, in the State who are Negroes, American Indians, Spanish-surnamed Americans, or members of other racial minority groups (such as Orientals, Alaskan natives, and Hawaiian natives) as determined by the Secretary, bears to the aggregate number of such children in all of the States. The remainder of such sums (other than sums reserved under section 1803(c)) may be expended by the Secretary as he may find necessary or appropriate (but only for activities described in section 1806 and in accordance with the other provisions of this title) for grants or contracts to carry out the purpose of this title stated in section 1802(a). The number of such children in each State and in all of the States shall be determined by the Secretary on the basis of the most recent available data satisfactory to him.

(b)(1) The amount by which any allotment to a State for a fiscal year under subsection (a) exceeds the amount which the Secretary determines will be required for such fiscal year for programs or projects within such State shall be available for reallotment to other States in proportion to the original allotments to such States under subsection (a) for that year, but with such proportionate amount for any such other States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use for such year; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amounts reallotted to a State under this subsection during a fiscal year shall be deemed part of its allotment under subsection (a) for such year.

(2) In order to afford ample opportunity for all eligible applicants in a State to submit applications for assistance under this title, the Secretary shall not fix a date for reallotment, pursuant to this subsection, of any portion of any allotment to a State for a fiscal year which date is earlier than sixty days prior to the end of such fiscal year.

(3) Notwithstanding the provisions of paragraph (1) of this subsection, no portion of any allotment to a State for a fiscal year shall be available for reallotment pursuant to this subsection unless the Secretary determines that the applications for assistance under this title which have been filed by eligible applicants in that State for which a portion of such allotment has not been reserved (but which would necessitate use of that portion) are applications which do not meet the requirements of this title, as set forth in sections 1806, 1807, and 1808, or which set forth programs or projects of such insufficent promise for achieving the purpose of this title stated in section 1802(a) that their approval is not warranted.

ELIGIBILITY FOR FINANCIAL ASSISTANCE

SEC. 1805. (a) The Secretary shall provide financial assistance by grant upon application therefor approved in accordance with this title to a local educational agency—

(1) which is implementing a plan—

(A) which has been undertaken pursuant to a final order issued by a court of the United States, or a court of any State, or any other State agency or official of competent jurisdiction, and which requires the desegregation of racially segregated students or faculty in the elementary and secondary schools of such agency, or otherwise requires the elimination or reduction of racial isolation in such schools; or

(B) which has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 for the desegregation of racially segregated students or faculty in such schools;

(2) which, without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this title, adopt and implement, a plan for the complete elimination of racial isolation in all the racially isolated schools in the school district of such agency;

(3) which, without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this title, adopt and implement a plan—

(A) to eliminate or reduce racial isolation in one or more of the racially isolated schools in the school district of such agency,

(B) to reduce the total number of Negro, American Indian, or Spanish-surnamed American children, or children of other racial minority groups as determined by the Secretary under section 1804(a), who are in racially isolated schools in such district, or

(C) to prevent racial isolation reasonably likely to occur (in the absence of assistance under this title) in any school in such district in which school at least 10 per centum, but not more than 50 per centum, of the enrollment consists of such children;

(4) which, without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this title, adopt and implement a plan to enroll and educate in the schools of such agency children who would not otherwise be eligible for enrollment because of nonresidence in the school district of such agency, where such enrollment would make a significant contribution toward reducing racial isolation in one or more of the school districts to which such plan relates; or

(5) which, upon a determination by the Secretary—

(A) that more than 50 per centum of the number of children in attendance at the schools of a local educational agency is Negro, American Indian, or Spanish-surnamed American children, or children of other racial minority groups as determined by the Secretary under section 1804(a), and

(B) that such local educational agency has applied for and will receive at least an equal amount of assistance under subsection (b), has established or will establish one or more stable, quality, integrated schools. For the purposes of this paragraph, an integrated school shall be a school with (i) an enrollment in which a substantial proportion of the children is from educationally advantaged backgrounds, and in which the Secretary determines that the number of children who are not in groups described in clause (A) constitutes that proportion of the enrollment which will achieve stability, in no event more than 70 per centum thereof, and (ii) a faculty which is representative of persons who are Negroes, American Indians, or Spanish-surnamed Americans, or members of other racial minority groups as determined by the Secretary under section 1804(a) and persons who are not members of such groups in the population of the larger community in which it is located, or, whenever the Secretary determines that the local educational agency concerned is attempting to increase the proportions of racial minority group teachers, supervisors, and administrators in its employ, a faculty which is representative of the racial minority group and nonminority group faculty employed by the local educational agency.

(b) The Secretary is authorized to make grants to local educational agencies, which are eligible under subsection (a)(5), for unusually promising pilot programs or projects designed to overcome the adverse effects of racial isolation by improving the academic achievement of children in one or more racially isolated schools, if he determines that the local educational agency had a number of Negro, American Indian, or Spanish-surnamed American children, or children of other racial minority groups as determined by the Secretary under section 1804(a) enrolled in its schools, for the fiscal year preceding the fiscal year for which assistance is to be provided, which is at least 15,000.

(c) In cases in which the Secretary finds that it would effectively carry out the purpose of this title stated in section 1802(a), he may assist by grant or contract any public or private nonprofit agency, institution, or organization (other than a local educational agency) to carry out programs or projects designed to support the development or implementation of a plan or activity described in subsection (a).

(d)(1) No local educational agency shall be eligible for assistance under this title if it has, after the date of enactment of this title—

(A) transferred (directly or indirectly by gift, lease, loan, sale, or other means) real or personal property to, or made any services available to, any nonpublic school or school system (or any organization controlling, or intending to establish, such a school or school system) without prior determination by such agency that such nonpublic school or school system (i) is not operated on a racially segregated basis as an alternative for children seeking to avoid attendance in desegregated public schools, and (ii) does not otherwise practice discrimination on the basis of race, color, or national origin in the operation of any school activity;

(B) had in effect any practice, policy, or procedure which results in the disproportionate demotion or dismissal of instructional or other personnel from racial minority groups in conjunction with desegregation or the implementation of any plan or the conduct of any activity described in this section, or otherwise engaged in discrimination based upon race, color, or national origin in the hiring, promotion, or assignment of employees of the agency (or other personnel for whom the agency has any administrative responsibility);

(C) in conjunction with desegregation or the implementation of any plan or the conduct of any activity described in this section, had in effect any procedure for the assignment of children to or within classes which results in the separation of racial minority group from nonminority group children;

(D) had in effect any other practice, policy, or procedure, such as limiting curricular or extracurricular activities (or participation therein by children) in order to avoid the participation of racial minority group children in such activities, which discriminates among children on the basis of race, color, or national origin;

except that, in the case of any local educational agency which is ineligible for assistance by reason of clause (A), (B), (C), or (D), such agency may make application for a waiver of ineligibility, which application shall specify the reason for its ineligibility, contain such information and assurances as the Secretary shall require by regulation in order to insure that any practice, policy, or procedure, or other activity resulting in the ineligibility has ceased to exist or occur and include such provisions as are necessary to insure that such activities do not reoccur after the submission of the application.

(2) All determinations pursuant to this subsection shall be carried out in accordance with criteria and investigative procedures established by regulations of the Secretary for the purpose of compliance with this subsection.

(3) All determinations and waivers pursuant to this subsection shall be in writing.

(e)(1) The Secretary shall carry out a program to meet the needs of children who are from an environment in which the dominant language is other than English and who, because of language barriers and cultural differences, do not have equality of educational opportunity. From the amount reserved pursuant to section 1803(c) the Secretary is authorized to make grants to and contracts with—

(A) private nonprofit agencies, institutions, and organizations to develop curricula, at the request of one or more local educational agencies which are eligible for assistance under this section, designed to meet the special educational needs of children who are from environments in which the dominant language is other than English for the development of reading, writing, and speaking skills in the English language and in the language of their parents or grandparents, and to meet the educational needs of such children and their classmates to understand the history and cultural background of the groups of which such children are members;

(B) local educational agencies eligible for assistance under this section for the purposes of engaging in such activities;

(C) local educational agencies eligible for assistance under this section for the purpose of carrying out activities authorized under

section 1806 of this title to implement curricula developed under clause (A) or (B) or curricula otherwise developed which the Secretary determines meets the needs described in clause (A).

In making grants and contracts under this paragraph, the Secretary shall assure that sufficient funds from the amount reserved pursuant to section 1803(c) remain available to provide for grants and contracts under clause (C) of this paragraph for implementation of such curricula as the Secretary determines meet the needs described in clause (A) of this paragraph. In making a grant or contract under clause (C) of this paragraph, the Secretary shall take whatever action is necessary to assure that the implementation plan includes provisions adequate to insure training of teachers and other ancillary education personnel.

(2)(A) In order to be eligible for a grant or contract under this subsection—

(i) a local educational agency must establish a program or project committee meeting the requirements of subparagraph (B), which will fully participate in the preparation of the application under this subsection and in the implementation of the program or project and join in submitting such application; and

(ii) a private nonprofit agency, institution, or organization must (I) establish a program or project board of not less than ten members which meets the requirements of subparagraph (B) and which shall exercise policymaking authority with respect to the program or project and (II) have demonstrated to the Secretary that it has the capacity to obtain the services of adequately trained and qualified staff.

(B) A program or project committee or board established pursuant to subparagraph (A) must be broadly representative of parents, school officials, teachers, and interested members of the community or communities to be served, not less than half of the members of which shall be parents and not less than half of the members of which shall be members of the group, the educational needs of which the program or project is intended to meet.

(3) All programs or projects assisted under this subsection shall be specifically designed to complement any programs or projects carried out by the local educational agency under this section. The Secretary shall insure that programs of Federal financial assistance related to the purposes of this subsection are coordinated and carried out in a manner consistent with the provisions of this subsection, to the extent consistent with other law.

AUTHORIZED ACTIVITIES

SEC. 1806. Financial assistance under this title shall be available for programs or projects which would not otherwise be funded and which involve activities designed to carry out the purpose of this title stated in section 1802(a), including—

(1) remedial and other services to meet the special needs of children (including gifted and talented children) in schools which are affected by a plan or activity described in section 1805 or a program described in section 1809(2), when such services are deemed necessary to the success of such plan, activity, or program;

(2) the provision of additional professional or other staff members (including staff members specially trained in problems incident to desegregation or the elimination, reduction, or prevention of racial isolation) and the training and retraining of staff for such schools;

(3) comprehensive guidance, counseling, and other personal services for such children;

(4) development and employment of new instructional techniques and materials designed to meet the needs of such children;

(5) educational programs using shared facilities for career education and other specialized activities;

(6) innovative interracial educational programs or projects involving the joint participation of Negro, American Indian, or Spanish-surnamed American children, or children of other racial minority groups as determined by the Secretary under section 1804(a), and other children attending different schools, including extracurricular activities and cooperative exchanges or other arrangements between schools within the same or different school districts;

(7) repair or minor remodeling or alteration of existing school facilities (including the acquisition, installation, modernization, or replacement of equipment) and the lease or purchase of mobile classroom units or other mobile educational facilities;

(8) community activities, including public education efforts, in support of a plan or activity described in section 1805 or a program described in section 1809(2);

(9) special administrative activities, such as the rescheduling of students or teachers, or the provision of information to parents and other members of the general public, incident to the implementation of a plan or activity described in section 1805 or a program described in section 1809(2);

(10) planning and evaluation activities; and

(11) other specially designed programs or projects which meet the purpose of this title stated in section 1802(a).

CRITERIA FOR APPROVAL

SEC. 1807. (a) In approving applications submitted under this title (except for those submitted under sections 1805(e) and 1809(2)), the Secretary shall apply only the following criteria:

(1) the need for assistance, taking into account such factors as—

(A) the extent of racial isolation (including the number of racially isolated children and the relative concentration of such children) in the school district to be served as compared to other school districts in the State,

(B) the financial need of such school district as compared to other school districts in the State,

(C) the expense and difficulty of effectively carrying out a plan or activity described in section 1805 in such school district as compared to other school districts in the State, and

(D) the degree to which measurable deficiencies in the quality of public education afforded in such school district exceed those of other school districts within the State;

(2) the degree to which the plan or activity described in section 1805, and the program or project to be assisted, are likely to effect a decrease in racial isolation in racially isolated schools, or in the case of applications submitted under section 1805(a)(3)(C), the degree to which the plan and the program or project, are likely to prevent racial isolation from occurring or increasing (in the absence of assistance under this title);

(3) the extent to which the plan or activity described in section 1805 constitutes a comprehensive districtwide approach to the elimination of racial isolation, to the maximum extent practicable, in the schools of such school district;

(4) th degree to which the program or project to be assisted affords promise of achieving the purpose of this title stated in section 1802(a);

(5) that (except in the case of an application submitted under section 1809(1)) the amount necessary to carry out effectively the program or project does not exceed the amount available for assistance in the State under this title in relation to the other applications from the State pending before him; and

(6) the degree to which the plan or activity described in section 1805 involves to the fullest extent practicable the total educational resources, both public and private, of the community to be served.

(b) The Secretary shall not give less favorable consideration to the application of a local educational agency (including an agency currently classified as legally desegregated by the Secretary) which has voluntarily adopted a plan qualified for assistance under this title (due only to the voluntary nature of the action) than to the application of a local educational agency which has been legally required to adopt such a plan.

ASSURANCES

SEC. 1808. (a) An application submitted for approval under this title shall contain such information as the Secretary may prescribe and shall contain assurances that—

(1) the appropriate State educational agency has been given reasonable opportunity to offer recommendations to the applicant and to submit comments to the Secretary;

(2) the applicant has adopted effective procedures, including provisions for such objective measurements of educational and other change to be effected by this title as the Secretary may require for the continuing evaluation of programs or projects under this title, including their effectiveness in achieving clearly stated program goals, their impact on related programs or projects and upon the community served, and their structure and mechanisms for the delivery of services, and including, where appropriate, comparisons with proper control groups composed of persons who have not participated in such programs or projects;

(3) the applicant will provide such other information as the Secretary may require to carry out the purpose of this title stated in section 1802(a);

(4) the applicant is not reasonably able to provide, out of non-Federal sources, the assistance for which the application is made; and

(5) staff members of the applicant who work directly with children, and professional staff of such applicant who are employed on the administrative level, will be hired, assigned, promoted, paid, demoted, dismissed or otherwise treated without regard to their membership in a racial minority group, except that no assignment pursuant to a court order or a plan approved under title VI of the Civil Rights Act of 1964, or otherwise adopted under section 1805, will be considered as being in violation of this subsection.

(b) An application for assistance under this title submitted by a local educational agency shall, in addition to meeting the requirements of subsection (a), contain satisfactory assurances that—

(1) to the extent consistent with the number of children, teachers, and other educational staff in the school district of such agency enrolled or employed in private nonprofit elementary and secondary schools whose participation would assist in achieving the purpose of this title stated in section 1802(a) or, in the case of an application under section 1805(e), would assist in meeting the needs described in paragraph (1)(A) of that subsection, such agency (after consultation with the appropriate private school officials) has made provisions for their participation on an equitable basis;

(2) such agency has not reduced its fiscal effort for the provision of free public education for children in attendance at the schools of such agency for the fiscal year for which assistance is sought under this title to less than that of the second preceding fiscal year;

(3) the current expenditure per pupil (as defined in section 1811(a)) which such agency makes from revenues derived from its local sources for the academic year for which assistance under this title will be made available to such agency is not less than the current expenditure per pupil which such agency made from such revenues for (A) the academic year preceding the academic year during which the implementation of a plan or activity described in section 1805 or in section 1809(2) was commenced, or (B) the third academic year preceding the aca-

demic year for which such assistance will be made available, whichever is later;

(4) the plan with respect to which such agency is seeking assistance (as specified in section 1805(a)(1)) does not involve freedom of choice as a means of desegregation, unless the Secretary determines that freedom of choice has achieved, or will achieve, the complete elimination of a dual school system in the school district of such agency;

(5) for each academic year for which assistance is made available to the applicant under this title, such agency has taken or is in the process of taking all practicable steps to avail itself of all assistance for which it is eligible under any program administered by the Commissioner of Education;

(6) such agency will not institute or have in effect any practice, policy, or procedure prohibited by clause (B), (C), or (D) of section 1805(d)(1));

(7) such agency will not engage in a transaction described in clause (A) of section 1805(d)(1); and

(8) such agency will carry out, and comply with, all provisions, terms, and conditions of any plan or activity as described in section 1805 or section 1809(2) upon which a determination of its eligibility for assistance under this title is based.

(c) The Secretary shall not finally disapprove in whole or in part any application for funds submitted by a local educational agency without first notifying the local educational agency of the specific reasons for his disapproval and without affording the agency a reasonable time to modify its application.

(d) The Secretary may, from time to time, set dates by which applications shall be filed.

(e) In the case of an application by a combination of local educational agencies for jointly carrying out a program or project under this title, at least one such agency shall be an agency described in section 1805 (a) or (e) or section 1809 and any one or more of such agencies joining in such application may be authorized to administer such program or project.

SPECIAL PROGRAMS

SEC. 1809. From the funds available to him under the second sentence of section 1804(a) the Secretary is authorized to make grants—

(1) to eligible local educational agencies to carry out model or demonstration programs related to the purpose of this title stated in section 1802(a) if in the Secretary's judgment these programs make a special contribution to the development of methods, techniques, or programs designed to eliminate racial segregation or to eliminate, reduce, or prevent racial isolation in elementary or secondary schools; and

(2) to local educational agencies to carry out programs for children who are from environments where the dominant language is other than English and who, (A) as a result of limited English-speaking ability, are educationally deprived, (B) have needs similar to the needs of other children participating in programs or projects assisted under this title, and (C) attend a school in which they constitute more than 50 per centum of the enrollment.

PAYMENTS

SEC. 1810. (a) Upon his approval of an application for assistance under this title, the Secretary shall reserve from the applicable allotment (including any applicable reallotment) available therefore the amount fixed for such application.

(b) The Secretary shall pay to the applicant such reserved amount, in advance or by way of reimbursement, and in such installments consistent with established practice, as he may determine.

(c)(1) If a local educational agency in a State is prohibited by law from providing for the participation of children and staff enrolled or employed in private nonprofit elementary and secondary schools as required by paragraph (1) of section 1808(b), the Secretary may waive such requirement with respect to local educational agencies in such State and, upon the approval of an application from a local educational agency within such State, shall arrange for the provision of services to such children enrolled in, or teachers or other educational staff of, any nonprofit private elementary or secondary school located within the school district of such agency if the participation of such children and staff would assist in achieving the purpose of this title stated in section 1802(a) or in the case of an application under section 1805(e) would assist in meeting the needs described in paragraph (1)(A). The services to be provided through arrangements made by the Secretary under this paragraph shall be comparable to the services to be provided by such local educational agency under such application. The Secretary shall pay the cost of such arrangements from such State's allotment or, in the case of an application under section 1805(e), from the funds reserved under section 1803(c), or in case of an application under section 1809, from the sums available to the Secretary under the second sentence of section 1804(a).

(2) In determining the amount to be paid pursuant to paragraph (1), the Secretary shall take into account the number of children and teachers and other educational staff who, except for provisions of State law, might reasonably be expected to participate in the program carried out under this title by such local educational agency.

(3) If the Secretary determines that a local educational agency has substantially failed to provide for the participation on an equitable basis of children and staff enrolled or employed in private nonprofit elementary and secondary schools as required by paragraph (1) of section 1808(b), he shall arrange for the provision of services to children enrolled in, or teachers or other educational staff of, the nonprofit private elementary or secondary school or schools located within the school district of such local educational agency, which services shall, to the maximum extent feasible, be identical with the services which would have been provided such children or staff had the local educational agency carried out such assurance. The Secretary shall pay the cost of such services from the grant to such local educational agency and shall have the authority for this purpose of recovering from such agency any funds paid to it under such grant.

(d) After making a grant or contract under this title, the Secretary shall notify the appropriate State educational agency of the name of the approved applicant and of the amount approved.

(e) The amount of financial assistance to a local educational agency under this title may not exceed those net additional costs which are determined by the Secretary, in accordance with regulations prescribed by him, to be the result of the implementation of a plan or activity described in section 1805 (a), (b), or (e), or of the operation of a program under section 1809(2).

DEFINITIONS

SEC. 1811. As used in this title, except when otherwise specified—

(a) The term "current expenditure per pupil" for a local educational agency means (1) the expenditures for free public education, including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities, but not including expenditures for community services, capital outlay and debt service, or any expenditure made from funds granted under such Federal program of assistance as the Secretary may prescribe, divided by (2) the number of children in average daily attendance to whom such agency provided free public education during the year for which the computation is made.

(b) The term "equipment" includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the provision of education services, such as instructional equipment and necessary furniture, printed, published, and audiovisual instructional materials, and other related material.

(c) The term "gifted and talented children" means, in accordance with objective criteria prescribed by the Secretary, children who have outstanding intellectual ability or creative talent.

(d) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control, or direction, of public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools, or a combination of local educational agencies; and includes any other public institution or agency having administrative control and direction of a public elementary or secondary school; and where responsibility for the control and direction of the activities in such schools which are to be assisted under this title is vested in an agency subordinate to such a board or other authority, the Secretary may consider such subordinate agency as a local educational agency for purpose of this title.

(e) The term "nonprofit" as applied to an agency, organization, or institution means an agency, organization, or institution owned or operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(f) The terms "racially isolated school" and "racial isolation" in reference to a school mean a school and condition, respectively, in which Negro, American Indian, or Spanish-surnamed American children, or children who are members of other racial minority groups as determined by the Secretary under section 1804(a), constitute more than 50 per centum of the enrollment of a school.

(g) The terms "elementary and secondary school" and "school" mean a school which provides elementary or secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

(h) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(i) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law for this purpose.

(j) The term "State" means one of the fifty States or the District of Columbia, and for purposes of section 1809, Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall be deemed to be States.

EVALUATION

SEC. 1812. Such portion as the Secretary may determine, but not more than 1 per centum, of any appropriation under this title for any fiscal year shall be available to him under the second sentence of section 1804(a) for evaluation (directly or by grant or contract) of the programs, activities, and projects authorized by this title.

JOINT FUNDING

SEC. 1813. Pursuant to regulations prescribed by the President, where funds are advanced by the Department of Health, Education, and Welfare and one or more other Federal agencies for any program, project, or activity funded in whole or in part under this title, any one Federal agency may be designated to act for all in administering the funds advanced.

NATIONAL ADVISORY COUNCIL

SEC. 1814. (a) There is hereby established a National Advisory Council on Equality of Educational Opportunity, consisting of fifteen members, at least one-half of whom shall be representatives of racial minority groups, appointed by the President, which shall—

(1) advise the Secretary with respect to the operation of the program authorized by this title, including the preparation of regulations and the implementation of the criteria for the approval of applications;

(2) review the operation of the program (A) with respect to its effectiveness in achieving the purpose stated in section 1802(a), and (B) with respect to the Secretary's conduct in the administration of the program;

(3) meet not less than four times in the period during which the program is authorized and submit through the Secretary to the Congress at least two interim reports, which reports shall include a statement of its activities and of any recommendations it may have with respect to the operation of the program; and

(4) not later than December 1, 1973, submit to the Congress a final report on the operation of the program.

(b) The Commissioner shall submit an estimate under the authority of section 401 (c) of part C of the General Education Provisions Act to the Congress for the appropriations necessary for the Council created by subsection (a) to carry out its functions.

REPORTS

SEC. 1815. The Secretary shall make periodic detailed reports concerning his activities in connection with the program authorized by this title and the program carried out with appropriations under the paragraph headed "Emergency School Assistance" in the Office of Education Appropriations Act, 1971 (Public Law 91-380), and the effectiveness of programs and projects assisted under this title in achieving the purpose of this title stated in section 1802(a). Such reports shall contain such information as may be necessary to permit adequate evaluation of the program authorized by this title, and shall include application forms, regulations, program guides, and guidelines used in the administration of the program. The report shall be submitted to the President and to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives. The first report submitted pursuant to this section shall be submitted no later than ninety days after the enactment of this title. Subsequent reports shall be submitted no less often than two times annually.

GENERAL PROVISIONS

SEC. 1816. (a) The provisions of parts B and C of the General Education Provisions Act shall apply to the program of Federal assistance authorized under this title as if such program were an applicable program under such General Education Provisions Act, and the Secretary shall have the authority vested in the Commissioner of Education by such parts with respect to such program.

(b) Section 422 of such General Education Provisions Act is amended by inserting "the Emergency School Aid Act of 1971;" after "the International Education Act of 1966;"

PROHIBITION AGAINST BUSING

SEC. 1817. No funds appropriated pursuant to this title may be used to acquire or pay for the use of equipment for the purpose of transporting children to or from any school, or otherwise to pay any part of the cost of any such transportation.

NEIGHBORHOOD SCHOOLS

SEC. 1818. Nothing in this title shall be construed as requiring any local educational agency which assigns students to schools on the basis of geographic attendance areas drawn on a racially nondiscriminatory basis to adopt any other method of student assignment whether or not the use of such geographic attendance areas results in the complete desegregation of the schools of such agency.

Mr. PELL. Mr. President, I move that the Senate concur in the House amendment with an amendment in the nature of a substitute.

The amendment in the nature of a substitute is as follows:

GENERAL PROVISIONS

SEC. 2. (a) As used in this Act—

(1) the term "Secretary" means the Secretary of Health, Education, and Welfare; and

(2) the term "Commissioner" means the Commissioner of Education;

unless the context requires another meaning.

(b) Unless otherwise specified, the redesignation of a section, subsection, or other designation by any amendment in this Act shall include the redesignation of any reference to such section, subsection, or other designation in any Act or regulation, however styled.

(c)(1) Unless otherwise specified, in any case where an amendment made by this Act is to become effective after a date set herein, it shall be effective with the beginning of the day which immediately follows the date after which such amendment is effective.

(2) In any case where the effective date for an amendment made by this Act is expressly stated to be effective after June 30, 1971, such amendment shall be deemed to have been enacted on July 1, 1971.

TITLE I—HIGHER EDUCATION

PART A—COMMUNITY SERVICE AND CONTINUING EDUCATION PROGRAMS

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS

SEC. 101. (a) Section 101 of the Higher Education Act of 1965 is amended by striking out all that follows "authorized to be appropriated" and inserting in lieu thereof the following: "$60,000,000 for the fiscal year ending June 30, 1972, and for each of the succeeding fiscal years ending prior to July 1, 1975.".

(b) The amendment made by subsection (a) shall be effective after June 30, 1971.

SPECIAL PROGRAMS AND PROJECTS RELATING TO NATIONAL AND REGIONAL PROBLEMS

SEC. 102. (a)(1) Sections 106, 107, 108, 109, 110, and 111 of the Higher Education Act of 1965, and all references thereto, are redesignated as sections 107, 108, 109, 110, 111, and 112, respectively. Title I of such Act is amended by inserting after section 105 the following new section:

"SPECIAL PROGRAMS AND PROJECTS RELATING TO NATIONAL AND REGIONAL PROBLEMS

"SEC. 106. (a)(1) The Commissioner is authorized to reserve from the sums appropriated pursuant to section 101 for any fiscal year an amount not in excess of 10 per centum of the sums so appropriated for that fiscal year for grants pursuant to subsection (b).

"(b)(1) From the sums reserved under subsection (a), the Commissioner is authorized to make grants to, and contracts with, institutions of higher education (and combinations thereof) to assist them in carrying out special programs and projects, consistent with the purposes of this title, which are designed to seek solutions to national and regional problems relating to urbanization, technological and social changes, and environmental pollution.

"(2) No grant or contract under this section shall exceed 90 per centum of the cost of the program or project for which application is made.".

(2) Section 103(a) of such title I is amended by striking out that part of the language which precedes ", the Commissioner" and by inserting in lieu thereof "From the sums appropriated pursuant to section 101 for any fiscal year which are not reserved under section 106(a)".

(b) The amendments made by the second sentence of subsection (a) and by paragraph (2) of such subsection shall be effective after June 30, 1972, and then—

(1) only with respect to appropriations for title I of the Higher Education Act of 1965 for fiscal years beginning after June 30, 1972; and

(2) only to the extent that the allotment to any State under section 103(a) of such title is not less for any fiscal year than the allotment to that State under such section 103(a) for the fiscal year ending June 30, 1972.

METROPOLITAN AREA PROGRAMS

SEC. 103. (a)(1) Sections 110, 111, and 112 (as so designated by section 102) of the Higher Education Act of 1965, and all references thereto, are redesignated as sections 111, 112, and 113, respectively. Title I of such Act is amended by inserting after section 109 the following new section:

"METROPOLITAN AREA PROGRAMS

"SEC. 110. (a) The Commissioner is authorized to make grants to institutions of higher education (and combinations thereof) which are located within, or adjacent to, Standard Metropolitan Statistical Areas to assist such institutions in planning, developing, and carrying out, consistent with the purposes of this title, comprehensive programs specifically designed to apply the resources of higher education to the problems of the urban communities within Standard Metropolitan Statistical Areas.

"(b) For the purposes of making grants under this section, there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1973, and for each of the succeeding fiscal years ending prior to July 1, 1975.".

(2) Section 101 of such title is amended by inserting after "under this title" the following: "(other than section 110)".

(b) Section 1201 of the Higher Education Act of 1965 is amended by adding at the end thereof the following new paragraph:

"(1) The term 'Standard Metropolitan Statistical Area' means the area in and around a city of fifty thousand inhabitants or more as defined by the Director of the Office of Management and Budget.".

(c) The amendments made by subsection (a) shall be effective after June 30, 1972.

EVALUATION OF ACTIVITIES

SEC. 104. (a) During the period beginning with the date of enactment of this Act and ending July 1, 1974, the Commissioner shall conduct a review of the programs and projects carried out with assistance under title I of the Higher Education Act of 1965 prior to July 1, 1973. Such review shall include an evaluation of specific programs and projects with a view toward ascertaining which of them show, or have shown (1) the greatest promise in achieving the purposes of such title, and (2) the greatest return for the resources devoted to them. Such review shall be carried out by direct evaluations by the Commissioner, by the use of other agencies, institutions, and groups, and by the use of independent appraisal units.

(b) Not later than March 31, 1973, and March 31, 1975, the Commissioner shall sub-

mit to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives a report on the review conducted pursuant to subsection (a). Such report shall include (1) an evaluation of the program authorized by title I of the Higher Education Act of 1965 and of specific programs and projects assisted through payments under such title, (2) a description and an analysis of programs and projects which are determined to be most successful, and (3) recommendations with respect to the means by which the most successful programs and projects can be expanded and replicated.

(c) Sums appropriated pursuant to section 401(c) of the General Education Provisions Act for the purposes of section 402 of such Act shall be available to carry out the purposes of this section.

PART B—COLLEGE LIBRARY PROGRAMS

AUTHORIZATION OF APPROPRIATIONS

SEC. 111. (a) Sections 201 and 221 of the Higher Education Act of 1965 are each amended by striking out "for the fiscal year ending June 30, 1971" and inserting in lieu thereof "each for the fiscal years ending June 30, 1971, and June 30, 1972."

(b) (1) Title II of the Higher Education Act of 1965 is amended by striking out "PART A—COLLEGE LIBRARY RESOURCES" and by striking out all of section 201 and inserting in lieu thereof the following:

"COLLEGE LIBRARY PROGRAMS; TRAINING; RESEARCH

"SEC. 201. (a) The Commissioner shall carry out a program of financial assistance—

"(1) to assist and encourage institutions of higher educaiton in the acquisition of library resources, including law library resources, in accordance with part A: and

"(2) to assist with and encourage research and training persons in librarianship, including law librarianship, in accordance with part B.

"(b) For the purpose of making grants under parts A and B, there are authorized to be appropriated $130,000,000 for the fiscal year ending June 30, 1973, and for each of the succeeding fiscal years ending prior to July 1, 1975. Of the sums appropriated pursuant to the preceding sentence for any fiscal year, 70 per centum shall be used for the purposes of part A and 30 per centum shall be used for the purposes of part B, except that the amount available for the purposes of part B for any fiscal year shall not be less than the amount appropriated for such purposes for the fiscal year ending June 30, 1972.

"(c) For the purposes of this title—

"(1) the term 'library resources' means books, periodicals, documents, magnetic tapes, phonograph records, audiovisual materials, and other related library materials, including necessary binding; and

"(2) the term 'librarianship' means the principles and practices of the library and information sciences, including the acquisition, organization, storage, retrieval and dissemination of information, and reference and research use of library and information resources.

"PART A—COLLEGE LIBRARY RESOURCES"

(2) (A) Section 202 of such title II is amended by striking out that part of the first sentence which precedes "institutions of higher education" and inserting in lieu thereof the following: "From the amount available for grants under this part pursuant to section 201 for any fiscal year, the Commissioner shall make basic grants for the purposes set forth in section 201(a)(1) to".

(B) Section 203 of such title II is amended by striking out that part of the first sentence which precedes "supplemental grants" and inserting in lieu thereof the following: "From that part of the sums appropriated pursuant to section 201 for the purposes of this part for any fiscal year which remains after making basic grants pursuant to section 202, and which is not reserved for the purposes of section 204, the Commissioner shall make", and by striking out "section 201" where it appears after "set forth in" and inserting in lieu thereof "section 201(a)(1)".

(C) (i) Section 204(a)(1) of such title II is amended to read as follows:

"(1) From the sums appropriated pursuant to section 201 for the purposes of this part for any fiscal year, the Commissioner is authorized to reserve not to exceed 25 per centum thereof for the purposes of this section.".

(ii) Section 304(a)(2) of such title II is amended by striking out that part of the first sentence which precedes "may be used to make" and inserting in lieu thereof "Sums reserved pursuant to paragraph (1)".

(iii) Section 204(a) of such title II is amended by striking out paragraph (3).

(3) (A) Part B of such title II is amended by striking out sections 221 and 222 and inserting in lieu thereof the following:

"TRAINING AND RESEARCH PROGRAMS

"SEC. 221. From the amount available for grants under this part pursuant to section 201 for any fiscal year, the Commissioner shall carry out a program of making grants in accordance with sections 222 and 223. Of such amount, 66⅔ per centum shall be available for the purposes of section 222 and 33⅓ per centum shall be available for the purposes of section 223.".

(B) Such part B is further amended by striking out section 225; and sections 223 and 224 of such part, and all references thereto (except those references thereto in section 221 of such part, as amended by subparagraph (A)), are redesignated as sections 222 and 223, respectively.

(c) (1) The amendments made by subsection (a) shall be effective on and after July 1, 1971.

(2) The amendments made by subsection (b) shall be effective after June 30, 1972, and only with respect to appropriations for the fiscal year ending June 30, 1973, and succeeding fiscal years.

WAIVER OF MAINTENANCE OF EFFORT REQUIREMENT

SEC. 112. (a) Section 202 of title II of the Higher Education Act of 1965 is amended by redesignating clauses (c) and (d), and all references thereto, as clauses (2) and (3), respectively, and by striking out clauses (a) and (b) and inserting in lieu thereof the following:

"(1) provides satisfactory assurance that the applicant will expend during the fiscal year for which the basic grant is sought, from funds other than funds received under this part—

"(A) for all library purposes (exclusive of construction), an amount not less than the average annual amount if expended for such purposes during the two fiscal years preceding the fiscal year for which assistance is sought under this part, and

"(B) for library resources, an amount not less than the average amount it expended for such resources during the two fiscal years preceding the fiscal year for which assistance is sought under this part,

except that, if the Commissioner determines, in accordance wtih regulations, that there are special and unusual circumstances which prevent the applicant from making the assurances required by this clause (1), he may waive that requirement for one or more of such assurances;".

(b) (1) The second sentence of such section 202 is amended by striking out "not exceed" and inserting in lieu thereof the following: ", for any fiscal year, be equal to the amount expended by the applicant for library resources during that year from funds other than funds received under this part, except that no basic grant shall exceed".

(2) Clause (1) of section 203(a) of such title II is amended by striking out that part thereof which follows "section 202" and inserting in lieu thereof a semicolon.

(c) The amendments made by this section shall be effective after, and only with respect to appropriations for fiscal year beginning after, June 30, 1971.

INCREASE IN MAXIMUM AMOUNT OF SUPPLEMENTAL GRANTS

SEC. 113. (a) Section 203(a) of the Higher Education Act of 1965 is amended by striking out "$10" and inserting in lieu thereof "$15".

(b) Such section 203(a) is amended by striking out "$15" and inserting in lieu thereof "$20".

(c) (1) The amendment made by subsection (a) shall be effective after, and only with respect to appropriations for fiscal years beginning after, June 30, 1972.

(2) The amendment made by subsection (b) shall be effective after, and only with respect to appropriations for fiscal years beginning after, June 30, 1974.

AUTHORIZATION OF APPROPRIATIONS FOR COLLEGE AND RESEARCH LIBRARY RESOURCES

SEC. 114. (a) Section 231 of the Higher Education Act of 1965 is amended by striking out "and the succeeding fiscal year" and inserting in lieu thereof "and $15,000,000 for each of the succeeding fiscal years ending prior to July 1, 1974".

(b) Such section 231 is further amended by striking out "enable the Commissioner to transfer funds to".

(c) The amendments made by subsections (a) and (b) shall be effective after June 30, 1971.

EVALUATION AND REPORT

SEC. 115. (a) Part C of title II of the Higher Education Act of 1965 is amended by adding at the end thereof the following new section:

"EVALUATION AND REPORT

"SEC. 232. No later than March 31 of each calendar year, the Librarian of the Congress shall transmit to the Committees on Education and Labor and on House Administration of the House of Representatives, and the Committees on Labor and Public Welfare and on Rules and Administration of the Senate, and to the respective Committees on Appropriations of the Congress, a report evaluating the result and effectiveness of acquisition and cataloging work done under this part, based to the maximum extent practicable on objective measurements, including costs, together with recommendations as to proposed legislative action.".

(b) The amendment made by subsection (a) shall be effective after June 30, 1971.

PART C—DEVELOPING INSTITUTIONS; EMERGENCY ASSISTANCE TO INSTITUTIONS OF HIGHER EDUCATION

EXTENSION OF AUTHORIZATION FOR TITLE III

SEC. 121. (a) Section 301(b)(1) of the Higher Education Act of 1965 is amended by inserting "each" after "$91,000,000" and by inserting after "1971," the following: "and the fiscal year ending June 30, 1972,".

(b) The amendments made by subsection (a) shall be effective after June 30, 1971.

REVISION OF TITLE III (STRENGTHENING DEVELOPING INSTITUTIONS)

SEC. 122. (a) Title III of the Higher Education Act of 1965 is amended to read as follows:

"TITLE III—STRENGTHENING DEVELOPING INSTITUTIONS

"AUTHORIZATIONS

"SEC. 301. (a) The Commissioner shall carry out a program of special assistance to strengthen the academic quality of developing institutions which have the desire and potential to make a substantial contribution to the higher education resources of the Nation but which are struggling for

survival and are isolated from the main currents of academic life and which enroll a significant proportion of students who have been educationally deprived or who have limited English speaking ability.

"(b)(1) For the purpose of carrying out this title, there are authorized to be appropriated $100,000,000 for the fiscal year ending June 30, 1973, and each of the succeeding fiscal years ending prior to July 1, 1975.

(2) Of the sums appropriated pursuant to this subsection for any fiscal year, (A) 24 per centum shall be available only for carrying out the provisions of this title with respect to developing institutions which are junior or community colleges, and (B) not less than 50 per centum shall be available only for carrying out the provisions of this title with respect to developing institutions which the Commissioner determines meets the criterion set forth in clause (D)(iii) of section 302(a)(1).

"ELIGIBILITY FOR SPECIAL ASSISTANCE

"SEC. 302. (a)(1) For the purposes of this title, the term 'developing institution' means an institution of higher education in any State which—

"(A) is legally authorized to provide, and provides within the State, an educational program for which it awards a bachelor's degree, or a junior or community college;

"(B) is accredited by a nationally recognized accrediting agency or association determined by the Commissioner to be reliable authority as to the quality of training offered or is, according to such an agency or association, making reasonable progress toward accreditation;

"(C) except as is provided in paragraph (2), has met the requirement of clauses (A) and (B) during the five academic years preceding the academic year for which it seeks assistance under this title; and

"(D) meets such other requirements as the Commissioner shall, with the advice of the Council, prescribe by regulation, which requirements shall include at least a determination of whether the institution—

"(i) is making a reasonable effort to improve the quality of its teaching and administrative staffs and of its student services,

"(ii) is, for financial or other reasons, struggling for survival and is isolated from the main currents of academic life, and

"(iii) enrolls a significant proportion of students who may have had inadequate secondary school preparation or who come from educationally, culturally, or economically deprived backgrounds.

"(2) The Commissioner is authorized to waive the requirement set forth in clause (C) of paragraph (1) in the case of applications for grants under this title by junior or community colleges, or such institutions located on or near an Indian reservation if the Commissioner determines that such action will increase the availability of higher education to Indians, except that grants pursuant to such applications for any fiscal year may not involve an expenditure of funds in excess of 10 per centum of the amount designated by clause (A) of paragraph (2) of section 301(b).

"(b) Any institution desiring special assistance under the provisions of this title shall submit an application for eligibility to the Commissioner at such time, in such form, and containing such information, as may be necessary to enable the Commissioner to evaluate the need of the applicant for such assistance and to determine its eligibility to be a developing institution for the purposes of this title. The Commissioner shall, with the advice of the Council approve any application for eligibility under this subsection, which indicates that the applicant is a developing institution meeting the requirements set forth in subsection (a). Not later than thirty days after the beginning of any fiscal year ending after June 30, 1972, the Commission shall, on the basis of applications submitted pursuant to the first sentence of this subsection, establish a list of developing institutions eligible for special assistance under the provisions of this title. Such list of developing institutions shall be published in the Federal Register as soon as possible after its establishment each year.

"(c) For the purposes of clause (A) of paragraph (1) and of paragraph (2) of subsection (a) of this section and of paragraph (2) of section 301(b), the term 'junior or community college' means an institution of higher education—

"(1) which does not provide an educational program for which it awards a bachelor's degree (or an equivalent degree);

"(2) which admits as regular students only persons having a certificate of graduation from a school providing secondary education (or the recognized equivalent of such a certificate); and

"(3) which does—

"(A) provide an educational program of not less than two years which is acceptable for full credit toward such a degree, or

"(B) offer a two-year program in engineering, mathematics, or the physical or biological sciences, which program is designed to prepare a student to work as a technician and at the semiprofessional level in engineering, scientific, or other technological fields, which fields require the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.

"ADVISORY COUNCIL ON DEVELOPING INSTITUTIONS

"SEC. 303. (a) There is hereby established an Advisory Council on Developing Institutions (in this title referred to as the 'Council') consisting of nine members appointed by the Commissioner with the approval of the Secretary.

"(b) The Council shall, with respect to the program authorized by this title, carry out the duties and functions specified by part C of the General Education Provisions Act and, in particular, it shall assist the Commissioner—

"(1) in developing the criteria for defining developing institutions under clause (D) of section 302(a)(1);

"(2) in establishing the list described in section 302(b);

"(3) in identifying developing institutions through which the purposes of this title may be achieved; and

"(4) in establishing the priorities and criteria to be used in making grants under section 304(a).

"USES OF FUNDS: COOPERATIVE ARRANGEMENTS, NATIONAL TEACHING FELLOWSHIPS, AND PROFESSORS EMERITUS

"SEC. 304. (a) The Commissioner is authorized to make grants and awards, in accordance with the provisions of this title, for the purpose of strengthening developing institutions Such grants and awards shall be used solely for the purposes set forth in subsection (b).

"(b) Funds appropriated pursuant to section 301(b) shall be available for—

"(1) grants to institutions of higher education to pay part of the cost of planning, developing, and carrying out cooperative arrangements between developing institutions and other institutions of higher education, and between developing institutions and other organizations, agencies, and business entities, which show promise as effective measures for strengthening the academic program and the administrative capacity of developing institutions, including such projects and activities as—

"(A) exchange of faculty or students, including arrangements for bringing visiting scholars to developing institutions,

"(B) faculty and administration improvement programs, utilizing training, education (including fellowships leading to advanced degrees), internships, research participation, and other means.

"(C) introduction of new curricula and curricular materials,

"(D) development and operation of cooperative education programs involving alternate periods of academic study and business or public employment, and

"(E) joint use of facilities such as libraries or laboratories, including necessary books, materials, and equipment;

"(2) National Teaching Fellowships to be awarded by the Commissioner to highly qualified graduate students and junior faculty members of institutions of higher education for teaching at developing institutions; and

"(3) Professors emeritus grants to be awarded by the Commissioner to professors retired from active service at institutions of higher education to encourage them to teach and to conduct research at developing institutions.

"(c)(1) An application for assistance for the purposes described in subsection (b)(1) shall be approved only if it—

"(A) sets forth a program for carrying out one or more of the activities described in subsection (b)(1), and set forth such policies and procedures for the administration of the program as will insure the proper and efficient operation of the program and the accomplishment of the purposes of this title;

"(B) sets forth such policies and procedures as will insure that Federal funds made available under this section for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds be made available for the purposes of the activities described in subsection (b)(1), and in no case supplant such funds;

"(C) sets forth policies and procedures for the evaluation of the effectiveness of the project or activity in accomplishing its purpose;

"(D) provides for such fiscal control and fund accounting procedures as may be necessary to insure proper disbursement of and accounting for funds made available under this title to the applicant; and

"(E) provides for making such reports, in such form and containing such information, as the Commissioner may require to carry out his functions under this title, and for keeping such records and affording such access thereto, as he may find necessary to assure the correctness and verification of such reports.

The Commissioner shall, after consultation with the Council, establish by regulation criteria as to eligible expenditures for which funds from grants for cooperative arrangements under clause (1) of subsection (b) may be used, which criteria shall be so designed as to prevent the use of such funds for purposes not necessary to the achievement of the purposes for which the grant is made.

"(2)(A) Applications for awards described in clauses (2) and (3) of subsection (b) may be approved only upon a finding by the Commissioner that the program of teaching and research set forth therein is reasonable in the light of the qualifications of the applicant and of the educational needs of the institution at which the applicant intends to teach.

"(B) No application for a National Teaching Fellowship or a Professors Emeritus Grant shall be approved for an award of such a fellowship or grant for a period exceeding two academic years, except that the award of a Professors Emeritus Grant may be for such period, in addition to such two-year period of award, as the Commissioner, upon the advice of the Council, may determine in accordance with policies of the Commissioner set forth in regulations.

"(C) Each person awarded a National Teaching Fellowship or a Professors Emeritus Grant shall receive a stipend for each academic year of teaching (or, in the case of a recipient of a Professors Emeritus Grant, research), as determined by the Commissioner upon the advice of the Council, plus an additional allowance for each such year for each dependent of such person.

"ASSISTANCE TO DEVELOPING INSTITUTIONS UNDER OTHER PROGRAMS

"SEC. 305. (a) Each institution which has been placed on the list of eligible developing institutions under section 302(b) shall be eligible for priority consideration and waivers in accordance with subsection (b).

"(b)(1) Subject to, and in accordance with, regulations promulgated for the purpose of this section, in the case of any application by a developing institution for assistance under any program specified in paragraph (2), the Commissioner is authorized, if such application is otherwise approvable, to waive any requirement for a non-Federal share of the cost of the program or project, or, to the extent not inconsistent with other law, to give, or require to be given, priority consideration of the application in relation to applications from institutions which are not developing institutions.

"(2) The provisions of this section shall apply to any program authorized by title II, IV, VI, or VII of this Act.

"(c) The Commissioner shall not waive, under subsection (b), the non-Federal share reqiurement for any program for applications which, if approved, would require the expenditure of more than 10 per centum of the appropriations for that program for any fiscal year.

"LIMITATION

"SEC. 306. None of the funds appropriated pursuant to section 301 (b)(1) shall be used for a school or department of divinity or for any religious worship or sectarian activity.".

(b) The amendment made by subsection (a) shall be effective after, and only with respect to appropriations made for fiscal years beginning after, June 30, 1972.

EMERGENCY ASSISTANCE FOR INSTITUTIONS OF HIGHER EDUCATION

SEC. 123. (a)(1) The Congress hereby finds and declares that—

(A) the Nation's institutions of higher education constitute a national resource which significantly contributes to the security, general welfare, and economy of the United States;

(B) considerable evidence has been advanced which indicates that many institutions of higher education are in financial distress resulting from many causes, including, among others, efforts on the part of such institutions to increase enrollments, to improve the quality of education and training, and to enlarge educational opportunities; and

(C) various proposals have been presented to the Congress, in response to such condition of financial distress, for providing financial assistance to the Nation's institutions of higher education but, except for that necessary to justify payments provided for reimbursement for part of the cost of instruction under subpart 5 of part A of title IV of the Higher Education Act of 1965 as added by section 131(b) of this Act, insufficient information is available on the basis of which the Congress can determine, with any degree of certainty, the nature and causes of such financial distress or the most appropriate means with which present and future conditions of financial distress may be dealt.

(2) It is the purpose of this section (A) to provide to institutions of higher education, which are determined in accordance with this section to be in serious financial distress, interim emergency assistance to enable them to determine the nature and causes of such distress and the means by which such distress may be alleviated, and to improve their capabilities for dealing with financial problems using, to the extent appropriate, assistance authorized under the Higher Education Act of 1965 and all other sources of financial assistance, and (B) to authorize the Commissioner to obtain and make available to the Congress such information as may be necessary to enable the Congress to assess problems relating to financing of higher education, and to make decisions, to the extent that such problems exist, with respect to long-range solutions to such problems.

(b)(1) There is authorized to be appropriated for the period beginning with the date of enactment of this Act, and ending June 30, 1973, $150,000,000 for the purpose of making grants under this subsection. Sums so appropriated shall remain available for obligation and expenditure until expended.

(2) (A) The Commissioner is authorized to make grants to institutions of higher education which are in serious financial distress, as such term is defined in regulations of the Commissioner, in accordance with the provisions of this section.

(B) A grant under this subsection may be made only upon application therefor to the Commissioner. Such applications shall be submitted at such time, in such form, and containing such information, assurances, policies, and procedures as the Commissioner may require in order to enable him to carry out his functions under this section. The Commissioner shall not approve any such application unless he finds that—

(i) in the case of a public institution of higher education, the institution has submitted its application for emergency assistance under this subsection to the appropriate State agency, as provided by the law of the State in which it is located and in accordance with regulations of the Commissioner, if any such agency exists with respect to such State, and such State agency has made a finding, in accordance with criteria established by the Commissioner, that such institution is in serious financial distress and (I) is in need of financial assistance under this section to continue its operation, or (II) will have to discontinue or substantially curtail its academic programs to the detriment of the quality of education available to its students;

(ii) in the case of a nonpublic institution of higher education, the institution either has complied with the procedure set forth in clause (i) for public institutions, or has submitted an application directly to the Commissioner and the Commissioner has determined that the institution meets the condition set forth in either clause (i) (I) or (i) (II), and has submitted a copy to the appropriate State agency, as determined under the law of the State in which it is located and in accordance with regulations of the Commissioner, for comment;

(iii) such institution has developed, adopted, and submitted a plan which the Commissioner determines provides reasonable assurance that, if the institution receives the grant for which it is applying, such institution will be able, during and after the period covered by such grant, to continue the educational services, programs, and activities with respect to which such grant is sought;

(iv) such institution is making a major contribution to the overall higher educational system of the area of the State in which it is located, or of the Nation; and

(v) such institution has included in such application such policies and procedures for the use of funds received under the grant as will insure that such funds will not be used for a school or department of divinity or for any religious worship or sectarian activity, and as will insure that such funds will be solely used for the purposes for which the grant is made.

(C) An application shall be approved under this subsection only if it includes such information, terms, and conditions as the Commissioner finds necessary and reasonable to enable him to carry out his functions under this section, and as he determines will be in the financial interest of the United States, and the applicant agrees—

(i) to disclose such financial information as the Commissioner determines to be necessary to determine the sources or causes of its financial distress and other information relating to its use of its financial resources;

(ii) to conduct a comprehensive cost analysis study of its operation, including income-cost comparisons and cost per credit hour of instruction for each department, in accordance with uniform standards prescribed by the Commissioner; and

(iii) to consider, and either implement or give adequate reasons in writing for not doing so, any financial or operational reform recommended by the Commissioner for the improvement of its financial condition.

(D) The Commissioner shall not approve an application for a grant under this section without first obtaining the advice and recommendations of a panel of specialists who are not regular, full-time employees of the Federal Government and who are competent to evaluate the applications as to the relative degree of financial distress of the applying institutions.

(c)(1) In order to give the States and the Nation the information needed to assess the dimensions of and extent of the financial crisis confronting the Nation's institutions of higher education, the Commissioner shall make, or arrange for, a study of the financial conditions of such institutions to determine the need, if any, the desirability, and the form that additional governmental and private assistance should take. Such study shall include (A) an analysis of the various proposals presented to the Congress that provide assistance to institutions of higher education, as well as other viable alternatives which, in the judgment of the Commissioner, merit inclusion in such a study; (B) the costs, advantages and disadvantages, and the extent to which each proposal would preserve the diversity and independence of such institutions; and (C) the extent to which each would advance the national goal of making higher education accessible to all individuals having the desire and ability to continue their education.

(2)(A) The Commissioner shall, at the earliest practicable date after he has had an opportunity to review the suggested national uniform standards referred to in clause (5) of section 140(c), but not later than July 1, 1973, prescribe national uniform standards for determining average per-student costs to institutions of higher education for providing postsecondary education for students in attendance at such institutions.

(B) After the Commissioner has prescribed the national uniform standard required by subparagraph (A), he shall require, as a condition of approval of any application of any institution of higher education for any funds under a grant or contract authorized by the Higher Education Act of 1965, that such institution supply cost-of-education data determined in accordance with such national uniform standards.

(3) The Commissioner shall report the results of the study required by this subsection to the President and the Congress not later than December 31, 1972.

(d)(1) The Commissioner is authorized to make grants to—

(A) institutions of higher education which are receiving emergency assistance under subsection (b) for the purpose of enabling them to improve their planning and management capabilities, and

(B) other institutions of higher education to assist them in conducting research and demonstration projects having national significance for improving the planning and management capabilities of institutions of higher education.

(2) The maximum amount of a grant under this subsection, with respect to an institution for any fiscal year, shall not exceed—

(A) an amount equal to the full-time equivalent number of persons in enrollment at that institution multiplied by $5; or

(B) $15,000;

whichever is greater.

(3) There are authorized to be appropriated for the period beginning on the date of enactment of this Act, and ending June 30, 1974, such sums as may be necessary to carry out the purposes of this subsection.

(e) As used in this section—

(1) the term "institution of higher education" means an educational institution in any State which (A) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (B) is legally authorized within such State to provide a program of education beyond secondary education, (C) has been in existence for at least five years prior to the date upon which it makes application under this section, (D) provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit towards such a degree, (E) is a public or other nonprofit institution, and (F) is accredited by a nationally recognized accrediting agency or association or, if not so accredited, (i) is an institution with respect to which the Commissioner has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time, or (ii) is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution which is accredited, and, for the purpose of this clause, the Commissioner shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered;

(2) the term "State" includes the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands; and

(3) the term "school or department of divinity" means an institution or a department or a branch of an institution the program of instruction of which is designed for the education of students (A) to prepare them to become ministers of religion or to enter upon some other religious vocation (or to provide continuing training for any such vocation), or (B) to prepare them to teach theological subjects.

PART D—STUDENT ASSISTANCE

REVISION OF PART A OF TITLE IV (EDUCATIONAL OPPORTUNITY GRANTS)

SEC. 131. (a) (1) (A) The first sentence of section 401(b) of the Higher Education Act of 1965 is amended by striking out that part which precedes "to enable the Commissioner" and inserting in lieu thereof: "There are hereby authorized to be appropriated $170,000,000 for the fiscal year ending June 30, 1972, and for each of the succeeding fiscal years ending prior to July 1, 1975,".

(B) Section 408 of such Act is amended by striking out "for the fiscal year ending June 30, 1971" and inserting in lieu thereof "each for the succeeding fiscal years ending prior to June 30, 1975".

(2) The amendments made by paragraph (1) shall be effective after June 30, 1971.

(b) (1) Part A of title IV of such Act is amended to read as follows:

"PART A—GRANTS TO STUDENTS IN ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION

"STATEMENT OF PURPOSE; PROGRAM AUTHORIZATION

"SEC. 401. (a) It is the purpose of this part, to assist in making available the benefits of postsecondary education to qualified students in institutions of higher education by—

"(1) providing basic educational opportunity grants (hereinafter referred to as 'basic grants') to all eligible students;

"(2) providing supplemental educational opportunity grants (hereinafter referred to as 'supplemental grants') to those students of exceptional need who, for lack of such a grant, would be unable to obtain the benefits of a postsecondary education;

"(3) providing for payments to the States to assist them in making financial aid available to such students;

"(4) providing for special programs and projects designed (A) to identify and encourage qualified youths with financial or cultural need with a potential for postsecondary education, (B) to prepare students from low-income families for postsecondary education, and (C) to provide remedial (including remedial language study) and other services to students; and

"(5) providing for payments to institutions of higher education in connection with students receiving assistance pursuant to subpart 1 who are in attendance at such institutions.

"(b) The Commissioner shall, in accordance with subparts 1, 2, 3, 4, and 5, carry out programs to achieve the purposes of this part.

"Subpart 1—Basic Educational Opportunity Grants

"BASIC EDUCATIONAL OPPORTUNITY GRANTS: AMOUNT AND DETERMINATIONS; APPLICATIONS

"SEC. 411. (a) (1) The Commissioner shall, during the period beginning July 1, 1972, and ending June 30, 1975, pay to each student who has been accepted for enrollment in, or is in good standing at, an institution of higher education (according to the prescribed standards, regulations and practices of that institution) for each academic year during which that student is in attendance at that institution, as an undergraduate, a basic grant in the amount for which that student is eligible, as determined pursuant to paragraph (2).

"(2) (A) (i) The amount of the basic grant for a student eligible under this subpart for any academic year shall be $1,400, less an amount equal to the amount determined under paragraph (3) to be the expected family contribution with respect to that student for that year.

"(ii) In any case where a student attends an institution of higher education on less than a full-time basis during any academic year, the amount of the basic grant to which that student is entitled shall be reduced in proportion to the degree to which that student is not so attending on a full-time basis, in accordance with a schedule of reductions established by the Commissioner for the purposes of this division. Such schedule of reductions shall be established by regulation and published in the Federal Register not later than February 1 of each year.

"(B) (i) The amount of a basic grant to which a student is entitled under this subpart for any academic year shall not exceed 50 per centum of the actual cost of attendance at the institution at which the student is in attendance for that year.

"(ii) For the purpose of this subparagraph the term 'actual cost of attendance' means, subject to regulations of the Commissioner, the actual per-student charges for tuition, fees, room and board (or expenses related to reasonable commuting), books, and an allowance for such other expenses as the Commissioner determines by regulation to be reasonably related to attendance at the institution at which the student is in attendance.

"(C) No basic grant shall be awarded to a student under this subpart if the amount of that grant for that student as determined under this paragraph for any academic year is less than $200. Pursuant to criteria established by the Commissioner by regulation, the institution of higher education may award a basic grant of less than $200 upon a determination that the amount of the basic grant is less than $200 because of the requirement of division (i) of subparagraph (B) and that due to exceptional circumstances the reduced grant should be made in order to enable the student to benefit from postsecondary education.

"(3) (A) (i) Not later than February 1 of each year the Commissioner shall publish in the Federal Register a schedule of expected family contributions for the succeeding academic year for various levels of family income, which, except as is otherwise provided in division (ii), together with any amendments thereto, shall become effective July 1 of that year. During the thirty-day period following such publication the Commissioner shall provide interested parties with an opportunity to present their views and make recommendations with respect to such schedule.

"(ii) The schedule of expected family contributions required by division (i) for each academic year shall be submitted to the President of the Senate and the Speaker of the House of Representatives not later than February 1 of that year. If either the Senate or the House of Representatives adopts, prior to May 1 of such year, a resolution of disapproval of such schedule, the Commissioner shall publish a new schedule of expected family contributions in the Federal Register not later than fifteen days after the adoption of such resolution of disapproval. Such new schedule shall take into consideration such recommendations as may be made in connection with such resolution and shall become effective, together with any amendments thereto, on July 1 of that year.

"(B) (i) For the purposes of this paragraph, the term 'family contribution' with respect to any student means the amount which the family of that student may be reasonably expected to contribute toward his postsecondary education for the academic year for which the determination under subparagraph (A) of paragraph (2) is made, as determined in accordance with regulations. In promulgating such regulations, the Commissioner shall follow the basic criteria set forth in division (ii) of this subparagraph.

"(ii) The basic criteria to be followed in promulgating regulations with respect to expected family contributions are as follows:

"(I) The amount of the effective income of the student or the effective family income of the student's family.

"(II) The number of dependents of the family of the student.

"(III) The number of dependents of the student's family who are in attendance in a program of postsecondary education and for whom the family may be reasonably expected to contribute for their postsecondary education.

"(IV) The amount of the assets of the student and those of the student's family.

"(V) Any unusual expenses of the student or his family, such as unusual medical expenses, and those which may arise from a catastrophe.

"(iii) For the purposes of clause (I) of division (ii) the term 'effective family in-

come' with respect to a student means the annual adjusted family income, as determined in accordance with regulations prescribed by the Commissioner, received by the parents or guardian of that student (or the person or persons having an equivalent relationship to such student) minus Federal income tax paid or payable with respect to such income.

"(iv) For the purposes of this paragraph, one-half of veteran's benefits and payments under the Social Security Act received by a student or a student's family shall not be included in the determination of family contribution.

"(C) The Commissioner shall promulgate special regulations for determining the expected family contribution and effective family income in the case of students who are determined to be emancipated or self-supporting. Such special regulations shall be consistent with the basic criteria set forth in division (ii) of subparagraph (B).

"(4)(A) The period during which a student may receive basic grants shall be the period required for the completion of the undergraduate course of study being pursued by that student at the institution at which the student is in attendance, except that such period may not exceed four academic years unless—

"(i) the student is pursuing a course of study leading to a first degree in a program of study which is designed by the institution offering it to extend over five academic years; or

"(ii) the student is, or will be, unable to complete a course of study within four academic years because of a requirement of the institution of such course of study that the student enroll in a noncredit remedial course of study,

in either which case such period may be extended for not more than one additional academic year.

"(B) For the purposes of clause (ii) of subparagraph (A), a 'noncredit remedial course of study' is a course of study for which no credit is given toward an academic degree, and which is designed to increase the ability of the student to engage in an undergraduate course of study leading to such a degree.

"(b)(1) The Commissioner shall from time to time set dates by which students must file applications for basic grants under this subpart.

"(2) Each student desiring a basic grant for any year must file an application therefor containing such information and assurances as the Commissioner may deem necessary to enable him to carry out his functions and responsibilities under this subpart.

"(3)(A) Payments under this section shall be made in accordance with regulations promulgated by the Commissioner for such purpose, in such manner as will best accomplish the purposes of this section.

"(B) If, during any period of any fiscal year, the funds available for payments under this subpart are insufficient to fully satisfy all entitlements under this subpart, the amount paid with respect to each such entitlement shall be ratably reduced. When sufficient funds become available for such purpose, the amount of payment to be applied to each holder of a basic grant shall be equal to the difference between the amount paid to that holder under the first sentence of this subparagraph and the amount determined under subsection (a) to be that to which that holder is entitled for that year. No method of computing or manner of distribution of payments shall be used which is inconsistent with this subparagraph.

"Subpart 2—Supplemental Educational Opportunity Grants

"PURPOSE; APPROPRIATIONS AUTHORIZED

"SEC. 413A. (a) It is the purpose of this subpart to provide, through institutions of higher education, supplemental grants to assist in making available the benefits of post-secondary education to qualified students who, for lack of financial means, would be unable to obtain such benefits without such a grant.

"(b)(1) For the purpose of enabling the Commissioner to make payments to institutions of higher education which have made agreements with the Commissioner in accordance with section 413C(b), for use by such institutions for payments to undergraduate students for the initial academic year of a supplemental grant awarded to them under this subpart, there are authorized to be appropriated $200,000,000 for the fiscal year ending June 30, 1973, and for each of the succeeding fiscal years ending prior to July 1, 1975. Funds appropriated pursuant to this paragraph shall be appropriated separate from any funds appropriated pursuant to paragraph (2).

"(2) In addition to the sums authorized to be appropriated by paragraph (1), there are authorized to be appropriated by paragraph (1), there are authorized to be appropriated such sums as may be necessary for payment to institutions of higher education for use by such institutions for making continuing supplemental grants under this subpart, except that no appropriation may be made pursuant to this paragraph for any fiscal year beginning more than three years after the last fiscal year for which an appropriation is authorized under paragraph (1). Funds appropriated pursuant to this paragraph shall be appropriated separate from any funds appropriated pursuant to paragraph (1).

"(3) Sums appropriated pursuant to this subsection for any fiscal year shall be available for payments to institutions until the end of the fiscal year succeeding the fiscal year for which they were appropriated.

"(4) For the purposes of this subsection, payment for the first year of a supplemental grant shall not be considered as an initial year payment if the grant was awarded for the continuing education of a student who—

"(A) had been previously awarded a supplemental grant under this subpart (whether by another institution or otherwise), and

"(B) had received payment for any year of that supplemental grant.

"AMOUNT AND DURATION OF GRANTS

"SEC. 413B. (a)(1) An institution which awards a supplemental grant to a student under this subpart shall, for the duration of the grant, pay, from the funds received under this subpart by such institution for such purpose, to that student, for each academic year during which he is in need of such grant to pursue a course of study at that institution, an amount determined pursuant to paragraph (2).

"(2)(A)(i) The amount of the payment to any student pursuant to paragraph (1) shall be equal to the amount determined by the institution to be needed by that student to enable him to pursue a course of study at the institution, except that such amount shall not exceed—

"(I) $1,000, or

"(II) one-half the sum of the total amount of student financial aid provided to such student by institution,

whichever is the lesser.

"(ii) The $1,000 limitation set forth in clause (I) of division (i) shall be increased to $1,200 in the case of a student who, during the preceding academic year, is determined in accordance with regulations to have ranked in the upper half of his class at an institution of higher education.

"(iii) For the purposes of clause (II) of division (i), the term 'student financial aid' includes assistance payments to the student under subpart 1 of this part and parts C and E of this title, and any assistance provided to a student under any scholarship program established by a State or a private institution or organization, as determined in accordance with regulations, shall be deemed to be aid provided such student by the institution.

"(B) If the amount determined under division (i) of subparagraph (A) with respect to a student for any academic year is less than $200, no payment shall be made to that student for that year.

"(C) Subject to subparagraphs (A) and (B), the Commissioner shall prescribe, for the guidance of institutions, basic criteria and schedules for the determination of the amount of needs to be determined under division (i) of subparagraph (A). Such criteria and schedules shall take into consideration the objective of limiting assistance under this subpart to students of financial need, and such other factors related to determining the need of students of financial assistance as the Commissioner deems relevant.

"(b)(1)(A) The duration of a supplemental grant awarded to a student under this subpart shall be the period required for the completion of the undergraduate course of study being pursued by the student to whom the grant is awarded at the institution awarding the grant.

"(B) The period of the duration of a supplemental grant under this subpart shall not exceed four academic years, less any such period with respect to which that student has previously received payments under this subpart pursuant to a prior award of a supplemental grant, whether such payments were made by the same or another institution, except that in the case of a student—

"(i) who is pursuing a course of study leading to a first degree in a program of study which is designed by the institution offering it to extend over five academic years, or

"(ii) who, is, or will be, unable to complete a course of study within four academic years because of a requirement of the institution offering such course of study that the student enroll in a noncredit remedial course of study,

such period may be extended for not more than one additional academic year. For the purposes of clause (ii), a 'non-credit remedial course of study' is a course of study for which no credit is given toward an academic degree, and which is designed to increase the ability of the student to engage in an undergraduate course of study leading to such a degree.

"(2) A supplemental grant awarded under this subpart shall entitle the student to whom it is awarded to payments pursuant to such grant only if—

"(A) that student is maintaining satisfactory progress in the course of study he is pursuing, according to the standards and practices of the institution awarding the grant, and

"(B) that student is devoting at least half-time to that course of study, during the academic year, in attendance at that institution.

Failure to be in attendance at the institution during vacation periods or periods of military service, or during other periods during which the Commissioner determines, in accordance with regulations, that there is good cause for his nonattendance, shall not render a student ineligible for a supplemental grant; but no payments may be made to a student during any such period of failure to be in attendance or period of nonattendance.

"SELECTION OF RECIPIENTS; AGREEMENTS WITH INSTITUTIONS

"SEC. 413C. (a)(1) An individual shall be eligible for the award of a supplemental grant under this subpart by an institution of higher education which has made an agreement with the Commissioner pursuant to subsection (b), if the individual makes application at the time and in the manner

prescribed by that institution, in accordance with regulations of the Commissioner.

"(2) From among those who are eligible for supplemental grants through an institution which has an agreement with the Commissioner under subsection (b) for each fiscal year, the institution shall, in accordance with such agreement under subsection (b), and within the amount allocated to the institution for that purpose for that year under section 413D(b) select individuals who are to be awarded such grants and determine, in accordance with section 413B, the amounts to be paid to them. An institution shall not award a supplemental grant to an individual unless it determines that—

"(A) he has been accepted for enrollment as an undergraduate student at such institution or, in the case of a student already attending such institution, is in good standing there as an undergraduate;

"(B) he shows evidence of academic or creative promise and capability of maintaining good standing in this course of study;

"(C) he is of exceptional financial need; and

"(D) he would not, but for a supplemental grant, be financially able to pursue a course of study at such institution.

"(b) An institution of higher education which desires to obtain funds for supplemental grants under this subpart shall enter into an agreement with the Commissioner. Such agreement shall—

"(1) provide that funds received by the institution under this subpart will be used by it solely for the purposes specified in, and in accordance with, the provisions of this subpart and of section 463;

"(2) provide that, in determining whether an individual meets the requirements of clause (C) of paragraph (2) of subsection (a), the institution will—

"(A) consider the source of such individual's income and that of any individual or individuals upon whom he relies primarily for support, and

"(B) make appropriate review of the assets of the student and of such individuals;

"(3) provide that the institution, in cooperation with other eligible institutions where appropriate, will make vigorous efforts to identify qualified youths of exceptional financial need, and to encourage them to continue their education beyond secondary school through such programs and activities as—

"(A) establishing or strengthening close working relationships with secondary school principals and guidance and counseling personnel, with a view toward motivating students to complete secondary school and to pursue postsecondary school educational opportunities, and

"(B) making, to the extent feasible, conditional commitments for student financial aid by such institution to qualified secondary school students enrolled in grade 11 or lower grades who show evidences of academic or creative promise;

"(4) provide that the institution will meet the requirements of section 464;

"(5) include provisions designed to make grants under this subpart reasonably available, to the extent of available funds, to all eligible students in attendance at the institution;

"(6) include such other provisions as may be necessary to protect the financial interest of the United States.

"APPORTIONMENT AND ALLOCATION OF FUNDS

"SEC. 413D. (a)(1)(A) From the sums appropriated pursuant to section 413A(b)(1) for any fiscal year, the Commissioner shall apportion to each State an amount which bears the same ratio to such sums as the number of persons enrolled full-time and the full-time equivalent of the number of persons enrolled part time in institutions of higher education in such State bears to the total number of such persons in all the States.

"(B) If the Commissioner determines that the sums apportioned to any State under subparagraph (A) for any fiscal year exceed the aggregate of the amounts that he determines to be required under subsection (b) for that fiscal year for institutions of higher education in that State, the Commissioner shall reapportion such excess, from time to time, on such date or dates as he shall fix, to other States in such manner as the Commissioner determines will best assist in achieving the purposes of this subpart.

"(2) Sums appropriated pursuant to section 413A(b)(2) for any fiscal year shall be apportioned among the States in such manner as the Commissioner determines will best achieve the purposes for which such sums were appropriated.

"(b)(1)(A) The Commissioner shall, from time to time, set dates before which institutions in any State must file applications for allocation, to such institutions, of supplemental grant funds from the apportionment to that State (including any reapportionment thereto) for any fiscal year pursuant to subsection (a)(1).

"(B)(i) From the sums apportioned (or reapportioned) to any State, the Commissioner shall allocate amounts to institutions which have submitted applications pursuant to subparagraph (A).

"(ii) Allocations under division (i) by the Commissioner to such institutions shall be made in accordance with equitable criteria established by the Commissioner by regulation. Such criteria shall be designed to achieve such distribution of supplemental grant funds among such institutions within a State as will most effectively carry out the purposes of this subpart.

"(2) The Commissioner shall, in accordance with regulations, allocate to such institutions in any State, from funds apportioned or reapportioned pursuant to subsection (a)(2), funds to be used as the supplemental grants specified in section 413A(b)(2).

"(3) Payments shall be made from allocations under this subsection as needed.

"Subpart 3—Grants to States for State Scholarship Incentives

"PURPOSE; APPROPRIATIONS AUTHORIZED

"SEC. 415A. (a) It is the purpose of this subpart to make grants available to the States to assist them in providing student incentive grants to eligible students in attendance at institutions of higher education.

"(b)(1) There are hereby authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1973, and for each of the succeeding fiscal years ending prior to July 1, 1975, for payments to the States for student incentive grants to individuals who have not previously been awarded such grants.

"(2) In addition to the sums authorized to be appropriated pursuant to paragraph (1), there is authorized to be appropriated such sums as may be necessary for making grants to individuals who have been awarded student incentive grants for previous years.

"(3) Sums appropriated pursuant to paragraph (1) for any fiscal year shall remain available for payments to States for the award of student incentive grants under this subpart until the end of the fiscal year succeeding the fiscal year for which such sums were appropriated.

"(4) For the purposes of this subsection, a payment on the first year of a student incentive grant with respect to any student who has not been awarded a student incentive grant during any previous year shall be considered, subject to regulations of the Commissioner, an initial award to be paid from appropriations pursuant to paragraph (1).

"ALLOTMENT AMONG STATES

"SEC. 415B. (a)(1)(A) From the sums appropriated pursuant to section 415A(b)(1) for any fiscal year, the Commissioner shall allot to each State an amount which bears the same ratio to such sums as the number of students in attendance at institutions of higher education in such State bears to the total number of such students in such attendance in all the States.

"(B) For the purposes of this paragraph, the number of students in attendance at institutions of higher education in a State and in all the States shall be determined by the Commissioner for the most recent year for which satisfactory data are available to him.

"(2) If the Commissioner determines that the amount allotted to any State under paragraph (1) for any fiscal year exceeds the amount he determines to be required for that fiscal year for the student incentive grant program of that State, such excess shall be reallotted among the other States, from time to time, on such date or dates as he shall fix, in such manner as he determines will best assist in achieving the purposes of this subpart.

"(b) Sums appropriated pursuant to section 415A(b)(2) for any fiscal year shall be allotted among the States in such manner as the Commissioner determines will best achieve the purposes for which such sums were appropriated.

"APPLICATIONS FOR STUDENTS INCENTIVE GRANT PROGRAMS

"SEC. 415C. (a) A State which desires to obtain a payment under this subpart for any fiscal year shall submit an application therefor through the State agency administering its program of student incentive grants, at such time or times, and containing such information as may be required by, or pursuant to, regulation for the purpose of enabling the Commissioner to make the determinations required under this subpart.

"(b) From a State's allotment under this subpart for any fiscal year the Commissioner is authorized to make payments to such State for paying 50 per centum of the amount of student incentive grants pursuant to a State program which—

"(1) is administered by a single State agency;

"(2) provides that such grants will be in amounts not in excess of $1,500 per academic year for attendance on a full-time basis as an undergraduate at an institution of higher education;

"(3) provides for the selection of recipients of such grants on the basis of substantial financial need determined on the basis of criteria established by the Commissioner;

"(4) provides for the payment of the non-Federal portion of such grants from funds supplied by such State which represent an additional expenditure for such year by such State for grants for students attending institutions of higher education over the amount expended by such State for such grants during the second fiscal year preceding the fiscal year in which such State initially received funds under this subpart; and

"(5) provides (A) for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the State agency under this subpart, and (B) for the making of such reports, in such form and containing such information, as may be reasonably necessary to enable the Commissioner to perform his functions under this subpart.

"(c) Upon his approval of any application for a payment under this subpart, the Commissioner shall reserve from the applicable allotment (including any applicable reallotment) available therefor, the amount of such payment, which (subject to the limits of such allotment or reallotment) shall be equal to the Federal share of the cost of the student incentive grant covered by such application. The Commissioner shall pay such reserved amount, in advance or by way of reimbursement, and in such installments as he may determine. The Commissioner's reservation

of any amount under this section may be amended by him, either upon approval of an amendment of the application or upon revision of the estimated cost of the student incentive grants with respect to which such reservation was made, and in the event of an upward revision of such estimated cost approved by him he may reserve the Federal share of the added cost only from the applicable allotment (or reallotment) available at the time of such approval.

"ADMINISTRATION OF STATE PROGRAMS; JUDICIAL REVIEW

"SEC. 415D. (a) (1) The Commissioner shall not finally disapprove any application for a State program submitted under section 415 C, or any modification thereof without first affording the State agency submitting the program reasonable notice and opportunity for a hearing.

"(2) Whenever the Commission, after reasonable notice and opportunity for hearing to the State agency administering a State program approved under this subpart, finds—

"(A) that the State program has been so changed that it no longer complies with the provisions of this subpart, or

"(B) that in the administration of the program there is a failure to comply substantially with any such provisions,

the Commissioner shall notify such State agency that the State will not be regarded as eligible to participate in the program under this subpart until he is satisfied that there is no longer any such failure to comply.

"(b) (1) If any State is dissatisfied with the Commissioner's final action with respect to the approval of its State program submitted under this subpart or with his final action under subsection (a), such State may appeal to the United States court of appeals for the circuit in which such State is located. The summons and notice of appeal may be served at any place in the United States. The Commissioner shall forthwith certify and file in the court the transcript of the proceedings and the record on which he based his action.

"(2) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the transcript and record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(3) The court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in title 28, United States Code, section 1254.

"Subpart 4—Special Programs for Students From Disadvantaged Backgrounds

"PROGRAM AUTHORIZATION

"SEC. 417A. (a) The Commissioner shall, in accordance with the provisions of this subpart, carry out a program designed to identify qualified students from low-income families, to prepare them for a program of postsecondary education, and to provide special services for such students who are pursuing programs of postsecondary education.

"(b) For the purpose of enabling the Commissioner to carry out this subpart, there are authorized to be appropriated $100,000,000 for the fiscal year ending June 30, 1973, and for each of the succeeding fiscal years ending prior to July 1, 1975.

"AUTHORIZED ACTIVITIES

"SEC. 417(B). (a) The Commissioner is authorized (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5)) to make grants to, and contracts with, institutions of higher education, including institutions with vocational and career education programs, combinations of such institutions, public and private nonprofit agencies and organizations (including professional and scholarly associations), and, in exceptional cases, secondary schools and secondary vocational schools, for planning, developing, or carrying out within the States one or more of the services described in section 417A(a).

"(b) Services provided through grants and contracts under this subpart shall be specifically designed to assist in enabling youths from low-income families who have academic potential, but who may lack adequate secondary school preparation or who may be handicapped, to enter, continue, or resume a program of postsecondary education, including—

"(1) programs, to be known as 'Talent Search', designed to—

"(A) identify qualified youths of financial or cultural need with an exceptional potential for postsecondary educational training and encourage them to complete secondary school and undertake postsecondary educational training,

"(B) publicize existing forms of student financial aid, including aid furnished under this title, and

"(C) encourage secondary-school or college dropouts of demonstrated aptitude to reenter educational programs, including postsecondary-school programs;

"(2) programs, to be known as 'Upward Bound', (A) which are designed to generate skills and motivation necessary for success in education beyond high school, and (B) in which enrollees from low-income backgrounds and with inadequate secondary-school preparation participate on a substantially full-time basis during all or part of the program;

"(3) programs, to be known as 'Special Services for Disadvantaged Students', of remedial and other special services for students with academic potential (A) who are enrolled or accepted for enrollment at the institution which is the beneficiary of the grant or contract, and (B) who, by reason of deprived educational, cultural, or economic background, or other handicap, are in need of such services to assist them to initiate, continue, or resume their postsecondary education; and

"(4) a program of paying up to 75 percentum of the cost of establishing and operating Educational Opportunity Centers which—

"(A) serve areas with major concentrations of low-income populations by providing, in coordination with other applicable programs and services—

"(i) information with respect to financial and academic assistance available for persons in such areas desiring to pursue a program of postsecondary education;

"(ii) assistance to such persons in applying for admission to institutions, at which a program of postsecondary education is offered, including preparing necessary applications for use by admission and financial aid officers; and

"(iii) counseling services and tutorial and other necessary assistance to such persons while attending such institutions; and

"(B) serve as recruiting and counseling pools to coordinate resources and staff efforts of institutions of higher education and of other institutions offering programs of postsecondary education, in admitting educationally disadvantaged persons.

The portion of the cost of any project assisted under clause (4) in the preceding sentence which is borne by the applicant shall represent an increase in expenditure by such applicant for the purposes of such project.

"Subpart 5—Payments to Institutions of Higher Education for Cost of Instruction

"COST-OF-INSTRUCTION ALLOWANCES

"SEC. 419. (a) Each institution of higher education at which a student who is the recipient of a basic grant under subpart 1 is in attendance, shall be entitled for each fiscal year to a cost-of-instruction allowance (hereinafter in this section referred to as 'allowance'), in accordance with the provisons of this section.

"(b) (1) (A) The amount of the allowance to which an institution shall be entitled under this section for a fiscal year shall be determined on the basis of the total number of undergraduate students in attendance at the institution, and the number of students who are in attendance at such institution and who are also recipients of basic grants under this part and shall be determined in accordance with the following table:

"If the total number of students in attendance is—	The amount of the grant is—
Not over 1,000	$500 for each recipient.
Over 1,000 but not over 2,500	$400 for each recipient or, if the number of recipients is at least 100, $50,000, plus $400 for each recipient in excess of 100.
Over 2,500 but not over 5,000	$300 for each recipient or, if the number of recipients is at least 250, $110,000, plus $300 for each recipient in excess of 250.
Over 5,000 but not over 10,000	$200 for each recipient or, if the number of recipients is at least 500, $185,000, plus $200 for each recipient in excess of 500.
Over 10,000	$100 for each recipient or, if the number of recipients is at least 1,000, $235,000, plus $100 for each recipient in excess of 1,000.

"(B) In any case where a recipient of a basic grant under subpart 1 attends an institution receiving an allowance under this subpart on less than a full-time basis, the amount of the allowance to that institution with respect to that student shall be reduced in proportion to the degree to which that student is not attending on a full-time basis.

"(C) The Commissioner shall make a separate determination of the number of students in attendance at an institution of higher education and the number of recipients of basic grants at any such institution at each branch or separate campus of that institution located in a different community from the principal campus of that institution pursuant to criteria established by him.

"(2) An institution of higher education may receive an allowance in accordance with this section only upon application therefor. An application under this section shall be submitted at such time or times, in such manner, and containing such information as the Commissioner determines necessary to carry out his functions under this title, and shall—

"(A) set forth such policies, assurances, and procedures as will insure that—

"(i) the funds received by the institution under this section will be used solely to defray instructional expenses in academically related programs of the applicant;

"(ii) except as is authorized in paragraph

(3), the applicant will not increase tuition with respect to the recipients of basic grants under this part above the rate charged by the applicant for undergraduate students for the academic year 1971–1972;

"(iii) the funds received by the institution under this section will not be used for a school or department of divinity or for any religious worship or sectarian activity;

"(iv) the applicant will expend, during the academic year for which a grant is sought, for all academically related programs of the institution, an amount equal to at least the average amount so expended during the three years preceding the year for which the grant is sought; and

"(v) the applicant will submit to the Commissioner such reports as the Commissioner may require by regulation; and

"(B) contain such other statement of policies, assurances, and procedures as the Commissioner may require by regulation in order to protect the financial interests of the United States.

"(3) In accordance with criteria established by regulations promulgated for the purposes of this paragraph, the Commissioner is authorized to permit increases in tuition in cases where failure to do so would result in undue hardship for an institution. Such criteria shall, among other factors, take into consideration increases in the cost-of-living index established by the Department of Labor.

"(c)(1) The Commissioner shall pay to each institution of higher education for each fiscal year the amount to which it is entitled under this section.

"(2) If during any period of any fiscal year the funds available for payments for entitlements established under this subpart are insufficient to fully satisfy all such entitlements the amount paid with respect to each such entitlement shall be ratably reduced. When sufficient funds become available for such period for such purpose the amount of payment from such funds to be applied to the entitled of each institution shall be equal to the difference between the amount paid to that institution under the first sentence of this paragraph and the amount of the entitlement for that institution as determined under paragraph (1) of subsection (b). No method of computing or no distribution of payments under this subpart shall be used which is inconsistent with this paragraph.".

(2) The amendment made by paragraph (1) shall be effective after June 30, 1972.

(3) There are authorized to be appropriated for each of the fiscal years ending prior to July 1, 1975, such sums as may be necessary for payment to institutions which have in effect agreements with the Commissioner entered into under section 407 of the Higher Education Act of 1965 before July 1, 1972, for use by such institutions for making educational opportunity grants under part A of title IV of such Act, as such part A is in effect on June 30, 1972, to undergraduate students for academic years other than the initial year of their educational opportunity grant under such part A.

(c) Section 461 of the Higher Education Act of 1965 is amended by striking out subsection (b) thereof and inserting in lieu thereof the following:

"(b)(1) For the purposes of this title, except subpart 5 of part A, the term 'institution of higher education' includes any school of nursing; and any proprietary institution of higher education which has an agreement with the Commissioner containing such terms and conditions as the Commissioner determines to be necessary to insure that the availability of assistance to students at the school under this title has not resulted, and will not result, in an increase in the tuition, fees, or other charges to such students.

"(2) For the purposes of this subsection—

"(A) The term 'school of nursing' means a public or other nonprofit collegiate or associate degree school of nursing.

"(B) The term 'collegiate school of nursing' means a department, division, or other administrative unit in a college or university which provides primarily or exclusively an accredited program of education in professional nursing and allied subjects leading to the degree of bachelor of arts, bachelor of science, bachelor of nursing, or to an equivalent degree, or to a graduate degree in nursing.

"(C) The term 'associate degree school of nursing' means a department, division, or other administrative unit in a junior college, community college, college, or university which provides primarily or exclusively an accredited two-year program of education in professional nursing and allied subjects leading to an associate degree in nursing or to an equivalent degree.

"(D) The term 'accredited' when applied to any program of nurse education means a program accredited by a recognized body or bodies approved for such purpose by the Commissioner.

"(3) For the purposes of this subsection, the term 'proprietary institution of higher education' means a school (A) which provides not less than a six-month program of training to prepare students for gainful employment in a recognized occupation, (B) which meets the requirements of clauses (1) and (2) of section 1201(a), (C) which does not meet the requirement of section clause (4) of section 1201(a), (D) which is accredited by a nationally recognized accrediting agency or association approved by the Commissioner for this purpose, and (E) which has been in existence for at least two years. For purposes of this paragraph, the Commissioner shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.

"(c) For the purposes of this title—

"(1) the term 'academic year' shall be defined by the Commissioner by regulations; and

"(2) the term 'in attendance', when applied to a student, means a student who attends an institution of higher education at least on a half-time basis, as defined by the Commissioner by regulation.".

(d)(1) Section 1201 of the Higher Education Act of 1965 is amended by adding at the end thereof the following new paragraph:

"(m) The term 'school or department of divinity' means an institution or a department or a branch of an institution the program of instruction of which is designed for the education of students (A) to prepare them to become ministers of religion or to enter upon some other religious vocation (or to provide continuing training for any such vocation), or (B) to prepare them to teach theological subjects.".

(2) The Higher Education Act of 1965 is amended by striking out the following provisions:

(A) The second sentence of section 113;

(B) The second sentence of section 207;

(C) The second sentence of section 526;

(D) The second sentence of section 609; and

(E) The second sentence of section 923.

(e) No payments shall be paid on the basis of entitlements created by subpart 5 of part A of title IV of the Higher Education Act of 1965 for any fiscal year in which—

(1) the appropriations available for payments on the basis of entitlements created by subpart 1 of such part are insufficient to pay in full the amounts to which all students are entitled under such subpart 1 for that fiscal year; or

(2) the appropriation for grants under subpart 2 of such part for that fiscal year does not at least equal the appropriation for the purposes of part A of title IV of the Higher Education Act of 1965 for the fiscal year ending June 30, 1972; or

(3) the appropriation for grants under part C of such title IV for that fiscal year does not at least equal the appropriation for such part C for the fiscal year ending June 30, 1972; or

(4) the appropriation pursuant to section 461 of the Higher Education Act of 1965 (as added by section 137(b) of this Act) for that fiscal year does not at least equal the appropriation for contributions to loan funds under title II of the National Defense Education Act of 1958 for the fiscal year ending June 30, 1972.

INSURED STUDENT LOANS—EXTENSION OF PROGRAM

SEC. 132A. (a)(1) Section 424(a) of the Higher Education Act of 1965 is amended by striking out "three succeeding fiscal years" and inserting in lieu thereof "succeeding fiscal years ending prior to July 1, 1975".

(2) Such section 424(a) is further amended by striking out "June 30, 1975" and inserting in lieu thereof "June 30, 1979".

(b) Paragraph (4) of section 428(a) of such Act is amended (A) by striking out "June 30, 1971" and inserting in lieu thereof "June 30, 1979" and (B) by striking out "shall end at the close of June 30, 1975" and inserting in lieu thereof "shall end at the close of June 30, 1979".

(c) Section 433(c) of such Act is amended by striking out "two succeeding fiscal years" and inserting in lieu thereof "succeeding fiscal years ending prior to July 1, 1975".

(d) The amendments made by this section shall be effective after June 30, 1971.

INCREASE IN LOAN LIMITATION IN EXCEPTIONAL CASES

SEC. 132B. (a)(1) Section 425(a) of the Higher Education Act of 1965 is amended by inserting before the period at the end of the first sentence the following: ", except when the financial aid officer of the institution in which such student is enrolled or at which he has been accepted for enrollment determines (in accordance with general criteria prescribed by the Commissioner) that such student is in need of a larger total to continue his education, in which case such total may not exceed whichever is the lesser, $2,500 or such larger total".

(2) Section 428(b)(1)(A) of such Act is amended by inserting after "$1,500" the following: (except when the financial aid officer of the institution in which such student is enrolled or at which he has been accepted for enrollment determines, in accordance with general criteria prescribed by the Commissioner, that such student is in need of a larger amount to continue his education, in which case such total may not exceed whichever is the lesser, $2,500 or such larger amount)".

(b) The amendments made by subsection (a) shall be effective with respect to loans made after the enactment of this Act, and insured by the Commissioner under part B of title IV of the Higher Education Act of 1965, or by a State or nonprofit private institution or organization with which the Commissioner has an agreement under section 428(b) of such part.

ELIGIBILITY OF INSTITUTIONS

SEC. 132C. (a) Part B of title IV of the Higher Education Act of 1965 is amended by adding at the end thereof the following new section:

"ELIGIBILITY OF INSTITUTIONS

"SEC. 438. Notwithstanding any other provision of this part, the Commissioner is authorized to prescribe such regulations as may be necessary to provide for—

"(1) a fiscal audit of an eligible institution with regard to any funds obtained from a student who has received a loan insured under this part, or insured by a State or nonprofit private institution or organization with which the Commissioner has an agreement under section 428(b);

"(2) the establishment of reasonable standards of financial responsibility and appropriate institutional capability for the administration by an eligible institution of a program of student financial aid with respect to funds obtained from a student who has received a loan insured under this part, or insured by a State or nonprofit private institution or organization with which the Commissioner has an agreement under section 428(b);

"(3) the limitation, suspension, or termination of the eligibility under this part of any otherwise eligible institution, whenever the Commissioner has determined, after notice and affording an opportunity for hearing, that such institution has violated or failed to carry out any regulation prescribed under this part.".

(b) The amendment made by subsection (a) shall be effective on and after the sixtieth day following the enactment of this Act.

STUDENT LOAN MARKETING ASSOCIATION

SEC. 133. (a)(1) Part B of title IV of the Higher Education Act of 1965 is further amended by adding at the end thereof the following new section:

"STUDENT LOAN MARKETING ASSOCIATION

"SEC. 439. (a) The Congress hereby declares that it is the purpose of this section to establish a Government-sponsored private corporation which will be financed by private capital and which will serve as a secondary market and warehousing facility for insured student loans, insured by the Commissioner under this part or by a State or nonprofit private institution or organization with which the Commissioner has an agreement under section 428(b), and which will provide liquidity for student loan investments.

"(b)(1) There is hereby created a body corporate to be known as the Student Loan Marketing Association (hereinafter referred to as the 'Association'). The Association shall have succession until dissolved. It shall maintain its principal office in the District of Columbia and shall be deemed, for purposes of venue in civil actions, to be a resident thereof. Offices may be established by the Association in such other place or places as it may deem necessary or appropriate for the conduct of its business.

"(2) The Association, including its franchise, capital, reserves, surplus, mortgages, or other security holdings, and income shall be exempt from all taxation now or hereafter imposed by any State, territory, possession, Commonwealth, or dependency of the United States, or by the District of Columbia, or by any county, municipality, or local taxing authority, except that any real property of the Association shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

"(3) There is hereby authorized to be appropriated to the Secretary of Health, Education, and Welfare $5,000,000 for making advances for the purpose of helping to establish the Association. Such advances shall be repaid within such period as the Secretary may deem to be appropriate in light of the maturity and solvency of the Association. Such advances shall bear interest at a rate not less than (A) a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturity of such advances, adjusted to the nearest one-eighth of 1 per centum, plus (B) an allowance adequate in the judgment of the Secretary to cover administrative costs and probable losses. Repayments of such advances shall be deposited into miscellaneous receipts of the Treasury.

"(c)(1) The Association shall have a Board of Directors which shall consist of twenty-one persons, one of whom shall be designated Chairman by the Board members.

"(2) An interim Board of Directors shall be appointed by the President, one of whom he shall designate as interim Chairman. The interim Board shall consist of twenty-one members, seven of whom shall be representative of banks or other financial institutions which are insured lenders pursuant to this section, seven of whom shall be representative of educational institutions, and seven of whom shall be representative of the general public. The interim Board shall arrange for an initial offering of common and preferred stocks and take whatever other actions are necessary to proceed with the operations of the Association.

"(3) When in the judgment of the President, sufficient common stock of the Association has been purchased by educational institutions and banks or other financial institutions, the holders of common stock which are educational institutions shall elect seven members of the Board of Directors and the holders of common stock which are banks or other financial institutions shall elect seven members of the Board of Directors. The President shall appoint the remaining seven directors.

"(4) At the time the events described in paragraph (3) have occurred, the interim Board shall turn over the affairs of the Association to the regular Board so chosen or appointed.

"(5) The directors appointed by the President shall serve at the pleasure of the President and until their successors have been appointed and have qualified. The remaining directors shall each be elected for a term ending on the date of the next annual meeting of the common stockholders of the Association, and shall serve until their successors have been elected and have qualified. Any appointive seat on the Board which becomes vacant shall be filled by appointment of the President. Any elective seat on the Board which becomes vacant after the annual election of the directors shall be filled by the Board, but only for the unexpired portion of the term.

"(6) The Board of Directors shall meet at the call of its chairman. The Board shall determine the general policies which shall govern the operations of the Association. The Chairman of the Board shall, with the approval of the Board, select, appoint, and compensate qualified persons to fill the offices as may be provided for in the bylaws, with such executive functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the executive officers of the Association and shall discharge all such executive functions, powers, and duties.

"(d)(1) The Association is authorized, subject to the provisions of this section, pursuant to commitments or otherwise, to make advances on the security of, purchase, service, sell, or otherwise deal in, at prices and on terms and conditions determined by the Association, student loans which are insured by the Commissioner under this part or by a State or nonprofit private institution or organization with which the Commissioner has an agreement under section 428(b).

"(2) Any warehousing advance made under paragraph (1) of this subsection shall not exceed 80 per centum of the face amount of an insured loan. The proceeds from any such advance shall be invested in additional insured student loans.

"(e) The Association, pursuant to such criteria as the Board of Directors may prescribe, shall make advances on security, purchase, service, sell, warehouse, or otherwise deal in student loans pursuant to subsection (d) only after the Association is assured in each instance—

"(1) that the lender (A) did not discriminate against any particular class or category of students by (i) requiring that, as a candidate to the receipt of a loan, the student or his family maintain a business relationship with the lender, except that in the case of a loan made by a Federal credit union pursuant to this part, nothing contained in this section shall be construed to limit the customary obligation of membership in such credit union and (ii) refusing to make loans to such students for their freshman year of study, and (B) did not discriminate on the basis of sex, color, creed, or national origin; and

"(2) that the lender's institution is in the geographical vicinity of the student's legal residence, or the loan was obtained only after the student had exercised reasonable efforts to obtain a loan from eligible lenders in the geographical vicinity of the student's legal residence, or the student obtained the loan with a lender outside the geographical vicinity of the student's legal residence because the lender maintained a business relationship with the student or his family.

"(f)(1) The Association shall have common stock having a par value of $100 per share which may be issued only to lenders under this part, pertaining to guaranteed student loans, who are qualified as insured lenders under this part.

"(2) Each share of common stock shall be entitled to one vote with rights of cumulative voting at all elections of directors. Voting shall be by classes as described in subsection (c)(3).

"(3) The common stock of the Association shall be transferable only as may be prescribed by regulations of the Secretary of Health, Education, and Welfare, and, as to the Association, only on the books of the Association. The Secretary of Health, Education, and Welfare shall prescribe the maximum number of shares of common stock the Association may issue and have outstanding at any one time.

"(4) To the extent that net income is earned and realized, subject to subsection (g)(2), dividends may be declared on common stock by the Board of Directors. Such dividends as may be declared by the Board shall be paid to the holders of outstanding shares of common stock, except that no such dividends shall be payable with respect to any share which has been called for redemption past the effective date of such call.

"(g)(1) The Association is authorized, with the approval of the Secretary of Health, Education, and Welfare, to issue nonvoting preferred stock with a par value of $100 per share. Any preferred share issued shall be freely transferable, except that, as to the Association, it shall be transferred only on the books of the Association.

"(2) The holders of the preferred shares shall be entitled to such rate of cumulative dividends and such shares shall be subject to such redemption or other conversion provisions, as may be provided for at the time of issuance. No dividends shall be payable on any share of common stock at any time when any dividend is due on any share of preferred stock and has not been paid.

"(3) In the event of any liquidation, dissolution, or winding up of the Association's business, the holders of the preferred shares shall be paid in full at par value thereof, plus all accrued dividends, before the holders of the common shares receive any payment.

"(h)(1) The Association is authorized with the approval of the Secretary of Health, Education, and Welfare and the Secretary of the Treasury to issue and have outstanding obli-

gations having such maturities and bearing such rate or rates of interest as may be determined by the Association. Such obligations may be redeemable at the option of the Association before maturity in such manner as may be stipulated therein.

"(2) The Secretary of Health, Education, and Welfare is authorized, within such limitations as may be specified in appropriations Acts, to guarantee payment when due of principal and interest on obligations issued by the Association in an aggregate amount determined by the Secretary in consultation with the Secretary of the Treasury.

"(3) To enable the Secretary of Health, Education, and Welfare to discharge his responsibilities under guarantees issued by him, he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of Health, Education, and Welfare with the approval of the Secretary of the Treasury but only in such amounts as may be specified from time to time in appropriations Acts. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the months preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. There is hereby authorized to be appropriated to the Secretary of Health, Education, and Welfare such sums as may be necessary to pay the principal and interest on the notes or obligation issued by him to the Secretary of the Treasury.

"(i) The association shall have power—

"(1) to sue and be sued, complain and defend, in its corporate name and through its own counsel;

"(2) to adopt, alter, and use the corporate seal, which shall be judicially noticed,

"(3) to adopt, amend, and repeal by its board of directors, bylaws, rules, and regulations as may be necessary for the conduct of its business;

"(4) to conduct its business, carry on its operations, and have officers and exercise the power granted by this section in any State without regard to any qualification or similar statute in any State;

"(5) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated;

"(6) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Association;

"(7) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

"(8) to appoint such officers, attorneys, employees, and agent as may be required, to determine their qualifications, to define their duties, to fix their salaries, require bonds for them and fix the penalty thereof; and

"(9) to enter into contracts, to execute instruments, to incur liabilities, and to do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

"(j)(1) The financial transactions of the Association shall be audited annually by the Secretary of the Treasury in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as he may prescribe. The audit shall be conducted at the place or places where the accounts are normally kept. The representatives of the Secretary shall have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Association and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents, and custodians.

"(2) The expenses of any audit performed under this section shall be borne out of appropriations to the Treasury Department, and appropriations in such sums as may be necessary are authorized. The Association shall reimburse the Department for the full cost of such audit as billed therefor by the Secretary, and the Department shall deposit the sums as reimbursed into the Treasury as miscellaneous receipts.

"(k) A report of each such audit for a fiscal year shall be made by the Secretary of the Treasury to the President and to the Congress not later than six months following the close of such fiscal year. The report shall set forth the scope of the audit and shall include a statement (showing intercorporate relations) of assets and liabilities, capital and surplus or deficit; a statement of surplus or deficit analysis; a statement of income and expense; a statement of sources and application of funds; and such comments and information as may be deemed necessary to keep the President and the Congress informed of the operations and financial condition of the Association, together with such recommendations with respect thereto as the Secretary may deem advisable, including a report of any impairment of capital or lack of sufficient capital noted in the audit. A copy of each report shall be furnished to the Secretary of Health, Education, and Welfare and to the Association.

"(l) All obligations issued by the Association shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under authority or control of the United States or of any officer or officers thereof. All stock and obligations issued by the Association pursuant to this section shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission, to the same extent as securities which are direct obligations of, or obligations guaranteed as to principal or interest by, the United States. The Association shall, for the purposes of section 14(b)(2) of the Federal Reserve Act, be deemed to be an agency of the United States.

"(m) In order to furnish obligations for delivery by the Association, the Secretary of the Treasury is authorized to prepare such obligations in such form as the Board of Directors may approve, such obligations when prepared to be held in the Treasury subject to delivery upon order by the Association. The engraved plates, dies, bed pieces, and so forth, executed in connection therewith shall remain in the custody of the Secretary of the Treasury. The Association shall reimburse the Secretary of the Treasury for any expenditures made in the preparation, custody, and delivery of such obligations.

"(n) The Association shall, as soon as practicable after the end of each fiscal year, transmit to the President and the Congress a report of its operations and activities during each year.".

(2) The authority of the Student Loan Marketing Association to make advances on the security of, purchase, service, sell, or otherwise deal in, student loans and to issue obligations shall terminate five years after the enactment of this Act. Upon the termination provided in the preceding sentence. The Board of Directors of the Association shall proceed to liquidate its assets and take whatever other action is necessary to wind up its affairs. Thereupon the Association shall notify the President and the Congress that it is dissolved.

(b)(1) The sixth sentence of the seventh paragraph of section 5136 of the Revised Statutes, as amended (12 U.S.C. 24), is amended by inserting "or obligations or other instruments or securities of the Student Loan Marketing Association," immediately after "or obligations, participation, or other instruments of or issued by the Federal National Mortgage Association or the Government National Mortgage Association,".

(2) Section 5200 of the Revised Statutes, as amended (12 U.S.C. 84), is amended by adding at the end thereof the following new paragraph:

"(14) Obligations of the Student Loan Marketing Association shall not be subject to any limitation based upon such capital and surplus.".

(3) The first paragraph of section 5(c) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)), is amended by inserting "or in obligations or other instruments or securities of the Student Loan Marketing Association;" in the second proviso immediately after "any political subdivision thereof".

(4) Section 8(8)(E) of the Federal Credit Union Act, amended (12 U.S.C. 1757(8)(E)), is amended by inserting before the semicolon at the end thereof the following: ", or in obligations or other instruments or securities of the Student Loan Marketing Association".

EXTENSION OF THE EMERGENCY INSURED STUDENT LOAN ACT OF 1969

SEC. 134. (a) Section 2(a)(7) of the Emergency Insured Student Loan Act of 1969 is amended by striking out "July 1, 1971" and inserting in lieu thereof "July 1, 1973".

(b) The amendment made by subsection (a) shall be effective on and after July 1, 1971.

COLLEGE WORK STUDY PROGRAM—EXTENSION AND SELECTION OF STUDENTS FOR EMPLOYMENT

SEC. 135. (a)(1) Section 441(b) of the Higher Education Act of 1965 is amended by striking out "the fiscal year ending June 30, 1971" and inserting in lieu thereof "each of the succeeding fiscal years ending prior to July 1, 1975".

(2) The amendment made by subsection (a) shall be effective after June 30, 1971.

(b)(1) Clause (3)(A) of section 444(a) of the Higher Education Act of 1965 is amended by inserting immediately after "such institution" the following: "(taking into consideration the actual cost of attendance at such institution)".

(2) The amendment made by subsection (a) shall be effective on and after July 1, 1971, with respect to appropriations for fiscal years beginning on and after July 1, 1971.

COOPERATIVE EDUCATION

SEC. 136. (a)(1) Section 451(a) of the Higher Education Act of 1965 is amended by striking out "the fiscal year ending June 30, 1971" and inserting in lieu thereof "each of the succeeding fiscal years ending prior to July 1, 1975".

(2) Section 451(b) of such Act is amended by striking out "two succeeding fiscal years" and inserting in lieu thereof "succeeding fiscal years ending prior to July 1, 1975".

(b) The amendments made by subsection (a) shall be effective after June 30, 1971.

DIRECT LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION

SEC. 137. (a) (1) Section 201 of the National Defense Education Act of 1958 is amended by inserting "each" after "$375,000,000", and by inserting after "June 30, 1971," the following: "and for the fiscal year ending June 30, 1972,".

(2) The amendments made by paragraph (1) shall be effective after June 30, 1971.

(b) Title IV of the Higher Education Act of 1965 is amended by striking out part F. Part E and sections 461, 462, 463, 464, and 469 of such title IV, and all references thereto (except the reference to section 461 in section 131(e)(4)), are redesignated as part F and sections 491, 492, 493, 494, and 499, respectively. Such title IV is further amended by inserting after part D the following new parts:

"PART E—DIRECT LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION

"APPROPRIATIONS AUTHORIZED

"SEC. 461. (a) The Commissioner shall carry out a program of stimulating and assisting in the establishment and maintenance of funds at institutions of higher education for the making of low-interest loans to students in need thereof to pursue their courses of study in such institutions.

"(o)(1) For the purpose of enabling the Commissioner to make contributions to student loan funds established under this part, there are hereby authorized to be appropriated $375,000,000 for the fiscal year ending June 30, 1972, and for each of the succeeding fiscal years ending prior to July 1, 1975.

"(2) In addition there are hereby authorized to be appropriated such sums for the fiscal year ending June 30, 1976, and each of the three succeeding fiscal years as may be necessary to enable students who have received loans for academic years ending prior to July 1, 1975, to continue or complete courses of study.

"(c) Any sums appropriated pursuant to subsection (b) for any fiscal year shall be available for apportionment pursuant to section 462 and for payments of Federal capital contributions therefrom to institutions of higher education which have agreements with the Commissioner under section 463. Such Federal capital contributions and all contributions from such institutions shall be used for the establishment, expansion, and maintenance of student loan funds.

"APPORTIONMENT OF APPROPRIATIONS

"SEC. 462. (a)(1) From the sums appropriated pursuant to section 461(b)(1) for any fiscal year, the Commissioner shall apportion to each State an amount which bears the same ratio to the amount so appropriated as the number of persons enrolled on a full-time basis in institutions of higher education, as determined by the Commissioner for the most recent year for which satisfactory data are available to him, in such State bears to the total number of persons so enrolled in all the States.

"(2) Any sums appropriated pursuant to section 461(b)(2) for any fiscal year shall be apportioned among institutions of higher education in such a manner as the Commissioner determines will best accomplish the purpose for which they were appropriated.

"(b)(1) Any institution of higher education desiring to receive payments of Federal capital contributions from the apportionment of the State in which it is located for any fiscal year shall make an agreement under section 463 and shall submit an application therefor to the Commissioner, in accordance with the provisions of this part. The Commissioner shall, from time to time, set dates before which such institutions must file applications under this section.

"(2) The Commissioner shall pay to each applicant under this subsection which has an agreement with him under section 463, from the amount apportioned to the State in which it is located, the amount requested in such application. Such payment may be made in such installments as the Commissioner determines will not result in unused accumulations of capital in the student loan fund of the applicant established under its agreement under section 463.

"(c)(1)(A) If the total amount of Federal capital contributions requested in the applications in the applications from a State for any fiscal year exceeds the amount apportioned to that State, the request from each institution shall be reduced ratably.

"(B) In case additional amounts become available for payments to student loan funds in a State in which requests have been ratably reduced under subparagraph (A), such requests shall be increased on the same basis as they were reduced, except that no request shall be increased above the request submitted under subsection (b)(1).

"(2) If the amount of an apportionment to a State for any fiscal year exceeds the total amount of Federal capital contributions requested in applications from that State, such excess shall be available for reapportionment from time to time on such date or dates as the Commissioner shall fix. From the aggregate of such excess for any fiscal year, the Commissioner shall reapportion to each State in which requests were reduced under subparagraph (A) of paragraph (1) an amount which bears the same ratio to such aggregate as the total amount of such reduction in that State bears to the total amount of such reductions in all the States.

"(d) The aggregate of the amounts of Federal capital contributions paid under this section for any fiscal year to proprietary institutions of higher education may not exceed the amount by which the sums appropriated pursuant to section 461(b)(1) for that fiscal year exceed $190,000,000.

"AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION

"SEC. 463. (a) An agreement with any institution of higher education for the payment of Federal capital contributions under this part shall—

"(1) provide for the establishment and maintenance of a student loan fund for the purposes of this part;

"(2) provide for the deposit in such fund of—

"(A) the Federal capital contributions,

"(B) a capital contribution by such institution in an amount equal to not less than one-ninth of the amount of such Federal contributions,

"(C) collections of principal and interest on student loans made from such fund,

"(D) charges collected pursuant to regulations under section 464(c)(1)(G), and

"(E) any other earnings of the funds;

"(3) provide that such student loan fund shall be used only for—

"(A) loans to students, in accordance with the provisions of this part,

"(B) administrative expenses, as provided in subsection (b),

"(C) capital distributions, as provided in section 466, and

"(D) costs of litigation, and other collection costs authorized by the Commissioner by regulation in connection with the collection of a loan from the fund (and interest thereon) or a charge assessed pursuant to regulations under section 464(c)(1)(G); and

"(4) include such other provisions as may be necessary to protect the financial interest of the United States and promote the purposes of this part as are agreed to by the Commissioner and the institution.

"(b) An instituton which has entered into an agreement under subsecton (a) shall be entitled, for each fiscal year during which it makes student loans from a student loan fund established under such agreement, to a payment in lieu of reimbursement for its expenses in administering its student loan program under this part during such year. Such payment shall be made in accordance with section 493.

"TERMS OF LOANS

"SEC. 464. (a) (1) Loans from any student loan fund established pursuant to an agreement under section 463 to any student by any institution shall, subject to such conditions, limitations, and requirements as the Commissioner shall prescribe by regulation, be made on such terms and conditions as the institution may determine.

"(2) The total of such loans for any academic year made by institutions from student loan funds assisted under this part shall not exceed—

"(A) $2,500, in the case of any graduate student or professional student (as defined by regulation); or

(B) $1,500, in the case of any other student.

The aggregate of the loans for all years from such funds shall not exceed $10,000, in the case of any such graduate or professional student, or $7,500, in the case of any other student.

"(3) Regulations of the Commissioner under paragraph (1) shall be designed to prevent the impairment of the capital of student loan funds to the maximum extent practicable and with a view toward the objective of enabling the student to complete his course of study.

"(b) A loan from a student loan fund assisted under this part may be made only to a student who—

"(1) is in need of the amount of the loan to pursue a course of study at such institution;

"(2) is capable, in the opinion of the institution, of maintaining good standing in such course of study;

"(3) has been accepted for enrollment as an undergraduate, graduate, or professional student in such instituton or, in the case of a student already in attendance at such institution, is in good standing; and

"(4) is carrying at least one-half the normal academic workload, as determined by the institution.

In any case in which a student has been determined to be eligible for a loan under the preceding sentence, and such student thereafter fails to maintain good standing, the eligibility of such student shall, upon notice to the Commissioner, be suspended, and further payments to, or on behalf of, such student shall not be made until such student regains good standing.

"(c)(1) Any agreement between an institution and a student for a loan from a student loan fund assisted under this part—

"(A) shall be evidenced by a note or other written instrument which, except as is provided in paragraph (2), provides for repayment of the principal amount of the loan, together with interest thereon, in installments over a period (i) beginning nine months after the student ceases to carry at least one-half the normal full-time academic workload at an institution of higher education and (ii) ending ten years and nine months after such date;

"(B) shall include provision for acceleration of repayment of the whole, or any part, of such loan, at the option of the borrower;

"(C) may provide, at the option of the institution in accordance with regulations of the Commissioner, that during the repayment period of the loan, payments of principal and interest by the borrower with respect to all outstanding loans made to him from student loan funds assisted under this

part shall be at a rate equal to not less than $30 per month;

"(D) shall provide that the loan shall bear interest, on the unpaid balance of the loan, at the rate of 3 per centum per annum, except that no interest shall accrue (i) prior to the beginning date of repayment determined under clause (A)(i), or (ii) during any period in which repayment is suspended by reason of paragraph (2);

"(E) unless the borrower is a minor and the note or other evidence of obligation executed by him would not, under applicable law create a binding obligation, shall provide that the loan shall be made without security and without endorsement;

"(F) shall provide that no note or evidence of obligation may be assigned by the lender, except upon the transfer of the borrower to another institution participating under this part (or, if not so participating, is eligible to do so and is approved by the Commissioner for such purpose), to such institution; and

"(G) may, pursuant to regulations of the Commissioner, provide for an assessment of a charge with respect to the loan for failure of the borrower (i) to pay all or part of an installment when it is due or (ii) to file timely and satisfactory evidence of an entitlement of the borrower to a deferment of repayment benefit or a cancellation benefit provided under this part.

"(2)(A) No repayment of principal of, or interest on, any loan from a student loan fund assisted under this part shall be required during any period in which the borrower—

"(i) is carrying at least one-half the normal full-time academic workload at an institution of higher education or at a comparable institution outside the United States which is approved for this purpose by the Commissioner;

"(ii) is a member of the Armed Forces of the United States;

"(iii) is in service as a volunteer under the Peace Corps Act; or

"(iv) is in service as a volunteer under title VIII of the Economic Opportunity Act of 1964.

The period during which repayment may be deferred by reason of clause (ii), (iii), or (iv) shall not exceed three years.

"(B) Any period during which repayment is deferred under subparagraph (A) shall not be included in computing the ten-year maximum period provided for in clause (A) of paragraph (1).

"(3) The Commissioner is authorized, when good cause is shown, to extend, in accordance with regulations, the ten-year maximum repayment period provided for in clause (A) of paragraph (1) with respect to individual loans.

"(4) The amount of any charge under clause (G) of paragraph (1) shall not exceed—

"(A) in the case of a loan which is repayable in monthly installments, $1 for the first month or part of a month by which such installment or evidence is late and $2 for each such month or part of a month thereafter, and

"(B) in the case of a loan which has a bimonthly or quarterly repayment interval, $3 and $6, respectively, for each such interval or part thereof by which such installment or evidence is late.

The institution may elect to add the amount of any such charge to the principal amount of the loan as of the first day after the day on which such installment or evidence was due, or to make the amount of the charge payable to the institution not later than the due date of the next installment after receipt by the borrower of notice of the assessment of the charge.

"(d) An agreement under this part for payment of Federal capital contributions shall include provisions designed to make loans from the student loan fund established pursuant to such agreement reasonably available (to the extent of the available funds in such funds) to all eligible students in such institution in need thereof.

"CANCELLATION OF LOANS FOR CERTAIN PUBLIC SERVICE

"SEC. 465. (a) (1) The per centum specified in paragraph (3) of this subsection of the total amount of any loan made after June 30, 1972, from a student loan fund assisted under this part shall be canceled for each complete year of service after such date by the borrower under circumstances described in paragraph (2).

"(2) Loans shall be canceled under paragraph (1) for service—

"(A) as a full-time teacher in a public or other nonprofit elementary or secondary school in a State, in an institution of higher education, or in an elementary or secondary school overseas of the Armed Forces of the United States;

"(B) as a full-time teacher in a public or other nonprofit elementary or secondary school in the school district of a local educational agency receiving assistance under title I of the Elementary and Secondary Education Act of 1965 if such school is determined (according to criteria established by regulation which shall permit such determination with respect to not more than 50 per centum of such schools in any State) to be serving an attendance area in which there is a high concentration of children from low-income families;

"(C) as a full-time teacher of handicapped children in a public or other nonprofit elementary or secondary school system; or

"(D) as a member of the Armed Forces of the United States.

For the purposes of this paragraph, (i) the term 'handicapped children' means children who are mentally retarded, hard of hearing, deaf, speech-impaired, visually handicapped, seriously emotionally disturbed, or other health-impaired children who by reason thereof require special education, and (ii) the term 'children from low-income families' means children from families with a family income which is not in excess of the low-income factor determined under section 103 of title I of the Elementary and Secondary Education Act of 1965.

"(3)(A) The per centum of a loan which shall be canceled under paragraph (1) of this subsection is—

"(i) in the case of service described in clause (A) of paragraph (2), not to exceed a total of 50 per centum of such loan at the rate of 10 per centum for each year of such service;

"(ii) in the case of service described in clause (B) or (C) of paragraph (2), 15 per centum for the first or second year of such service, 20 per centum for the third or fourth year of such service, and 30 per centum for the fifth year of such service; and

"(iii) in the case of service described in clause (D) of paragraph (2), not to exceed a total of 50 per centum of such loan at the rate of 12½ per centum for each year of consecutive service.

"(B) If a portion of a loan is canceled under this subsection for any year, the entire amount of interest on such loan which accrues for such year shall be canceled.

"(C) Nothing in this subsection shall be construed to authorize refunding any repayment of a loan.

"(4) For the purposes of this subsection, the term 'year' where applied to service as a teacher means academic year as defined by the Commissioner.

"(b) The Commissioner shall pay to each institution for each fiscal year an amount equal to the aggregate of the amounts of loans from its student loan fund which are canceled pursuant to this section for such year. None of the funds appropriated pursuant to section 461(b) shall be available for payments pursuant to this subsection.

"DISTRIBUTION OF ASSETS FROM STUDENT LOAN FUNDS

"SEC. 466. (a) After June 30, 1980, and not later than December 31, 1980, there shall be a capital distribution of the balance of the student loan fund established under this part by each institution of higher education as follows:

"(1) The Commissioner shall first be paid an amount which bears the same ratio to the balance in such fund at the close of June 30, 1980, as the total amount of the Federal capital contributions to such fund by the Commissioner under this part bears to the sum of such Federal contributions and the institution's capital contributions to such fund.

"(2) The remainder of such balance shall be paid to the institution.

"(b) After December 31, 1980, each institution with which the Commissioner has made an agreement under this part, shall pay to the Commissioner the same proportionate share of amounts received by the institution after June 30, 1974, in payment of principal and interest on student loans made from the student loan fund established pursuant to such agreement (which amount shall be determined after deduction of any costs of litigation incurred in collection of the principal or interest on loans from the fund and not already reimbursed from the fund or from such payments of principal or interest), as was determined for the Commissioner under subsection (a).

"(c) Upon a finding by the institution or the Commissioner prior to July 1, 1980, that the liquid assets of a student loan fund established pursuant to an agreement under this part exceed the amount required for loans or otherwise in the foreseeable future, and upon notice to such institution or to the Commissioner, as the case may be, there shall be, subject to such limitations as may be included in regulations of the Commissioner or in such agreement, a capital distribution from such fund. Such capital distribution shall be made as follows:

"(1) The Commissioner shall first be paid an amount which bears the same ratio to the total to be distributed as the Federal capital contributions by the Commissioner to the student loan fund prior to such distribution bear to the sum of such Federal capital contributions and the capital contributions to the fund made by the institution.

"(2) The remainder of the capital distribution shall be paid to the institution.".

(c)(1) Upon enactment of this Act, the program authorized by part E of title IV of the Higher Education Act of 1965 as added by subsection (b) is, and shall be deemed to be, a continuation of the program authorized by title II of the National Defense Education Act of 1958. In accordance with regulations of the Commissioner, all rights, privileges, duties, functions, and obligations under such title II prior to the enactment of this Act shall be deemed to be vested, as the Commissioner determines to be appropriate, under such part E. Any student loan fund established under an agreement under such title II shall, in accordance with regulations, be deemed to have been established under such part E; and any assets of any such student loan fund of any institution shall be deemed to be the assets of a student loan fund established under an agreement of that institution with the Commissioner under such part E.

(2) Title II of the National Defense Education Act of 1958 is amended by striking out section 206.

ELIGIBILITY FOR STUDENT ASSISTANCE

SEC. 138. (a) Part F of title IV of the Higher Education Act of 1965 is amended by inserting after section 494, the following new section:

"ELIGIBILITY FOR STUDENT ASSISTANCE

"SEC. 495. (a) If an institution of higher education determines, after affording notice and opportunity for hearing to an individual attending, or employed by, such institution, that such individual has been convicted by any court of record of any crime which was committed after June 30, 1972, and which involved the use of (or assistance to others in the use of) force, disruption, or the seizure of property under control of any institution of higher education to prevent officials or students in such institution from engaging in their duties or pursuing their studies, and that such crime was of a serious nature and contributed to a substantial disruption of the administration of the institution with respect to which such crime was commited, then the institution which such individual attends, or is employed by, shall deny for a period of two years any further payment to, or for the direct benefit of, such individual under any of the programs authorized under this title. If an institution denies an individual assistance under the authority of the preceding sentence of this subsection, then any institution which such individual subsequently attends shall deny for the remainder of the two-year period any further payment to, or for the direct benefit of, such individual under any program authorized by this title.

"(b) If an institution of higher education determines, after affording notice and opportunity for hearing to an individual attending, or employed by, such institution, that such individual has willfully refused to obey a lawful regulation or order of such institution after June 30, 1972, and that such refusal was of a serious nature and contributed to a substantial disruption of the administration of such institution, then such institution shall deny, for a period of two years, any further payments to, or for the direct benefit of, such individual under any program authorized by this title.

"(c)(1) Nothing in this section shall be construed to prohibit any institution of higher education from refusing to award, continue, or extend any financial assistance under this title to any individual because of any misconduct which in its judgment bears adversely on his fitness for such assistance.

"(2) Nothing in this section shall be construed as limiting or prejudicing the rights and prerogatives of any institution of higher education to institute and carry out an independent, disciplinary proceeding pursuant to existing authority, practice, and law.

"(3) Nothing in this section shall be construed to limit the freedom of any student to verbal expression of individual views or opinions.".

(b) Effective July 1, 1972, section 504 of Public Law 90-575 is repealed.

AFFIDAVIT OF EDUCATIONAL PURPOSE REQUIRED

SEC. 139. (a) Part F of title IV of the Higher Education Act of 1965 is amended by inserting after section 495 the following new section:

"AFFIDAVIT OF EDUCATIONAL PURPOSE REQUIRED

"SEC. 496. (a) Notwithstanding any other provision of law, no grant, loan, or loan guarantee authorized under this title may be made unless the students to whom the grant, loan, or loan guarantee is made has filed with the institution of higher education which he intends to attend, or is attending, an affidavit stating that the money attributable to such grant, loan, or loan guarantee will be used solely for expenses related to attendance or continued attendance at such institution.

"(b) Whenever the institution of higher education determines, after notice and opportunity for hearing, that any student has violated the affidavit required by subsection (a) of this section, that student shall be obligated to return any assistance subject to the violation and shall not be eligible for any further assistance received under this title after the date of the violation.

"(c) Nothing in this section shall be construed to invalidate any loan guarantee made under this title.".

(b) The amendment made by subsection (a) of this section shall become effective after the date of enactment of this Act.

POSTSECONDARY EDUCATION STUDY

SEC. 140. (a) It is the purpose of this section to authorize a study of the impact of past, present, and anticipated private, local, State, and Federal support for postsecondary education, the appropriate role for the States in support of higher education (including the application of State law upon postsecondary educational opportunities), alternative student assistance programs, and the potential Federal, State, and private participation in such programs.

(b) The Secretary shall conduct a thorough study and investigation of the impact of past and present support and the appropriate level of future support for higher education from private sources and from Federal, State, and local governments.

(c) In conducting such investigation and study, the Secretary shall consider—

(1) alternative models of State and local support for postsecondary education;

(2) new Federal initiatives to complement alternative State and local programs; and including—

(3) alternative forms of student assistance, including—

(A) loan programs based on income contingent lending;

(B) loan programs which utilized fixed, graduated repayment schedules; and

(C) loan programs which provide for cancellation or deferment of part or all of repayment in any given year based on a certain level of a borrower's income;

(4) the potential Federal, State, local, and private participation in such programs; and

(5) suggested national uniform standards for determining the anual per student costs of providing postsecondary education for students in attendance at various types and classes of institutions of higher education.

(d) In order to carry out the provisions of this section, the Secretary is authorized to—

(1) enter into contracts with institutions of higher education and other appropriate individuals, public agencies and private organizations;

(2) appoint and fix the compensation of such personnel as may be necessary;

(3) employ experts and consultants in accordance with section 3109 of title 5, United States Code;

(4) utilize, with their consent, the services, personnel, information, and facilities of other Federal, State, local, and private agencies with or without reimbursement; and

(5) consult with the heads of such Federal agencies as he deems appropriate.

(e) Not later than December 31, 1972, the Secretary shall report to the President and Congress the results of the investigation and study authorized by this section, together with such recommendations, including recommendations for legislation as he deems appropriate.

(f) There are authorized to be appropriated such sums, not to exceed $5,000,000, as may be necessary to carry out the provisions of this section.

PART E—EDUCATION PROFESSIONS DEVELOPMENT

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS

SEC. 141. (a)(1) Title V of the Higher Education Act of 1965 is amended—

(A) in section 511(b), by striking out "for the fiscal year ending June 30, 1971" and inserting in lieu thereof "each for the fiscal years ending June 30, 1971, and June 30, 1972";

(B) in sections 504(b), 518(b), 528, 532, and 543, by striking out "July 1, 1971" and inserting in lieu thereof "July 1, 1972" in each instance.

(2) The amendments made by paragraph (1) shall be effective after June 30, 1971.

(b)(1) Section 501 of the Higher Education Act of 1965 is amended by inserting "(a)" after "SEC. 501." and by adding at the end thereof the following new subsection:

"(b) For the purpose of carrying out the provisions of this title, there are authorized to be appropriated $600,000,000 for the fiscal year ending June 30, 1973, and for each of the succeeding fiscal years ending prior to July 1, 1975, of which—

"(1) not less than $500,000 shall be for the purposes of section 504;

"(2) not less than 25 per centum or $37,500,000, whichever is greater, shall be for the purposes of subpart 1 of part B;

"(3) not less than 5 per centum shall be for the purposes of part C;

"(4) not less than 5 per centum shall be for the purposes of part D;

"(5) not less than 5 per centum shall be for the purposes of part E;

"(6) not less than 10 per centum shall be for the purposes of part F; and

"(7) not less than 5 per centum of the amounts available for the purposes of part C or part D shall be used for the training of teachers for service in programs for children with limited English speaking ability.".

(2) The amendments made by paragraph (1) shall be effective after, and only with respect to appropriations for fiscal years beginning after, June 30, 1972.

(c)(1) Effective on and after July 1, 1972, title V of the Higher Education Act of 1965 is amended by striking out the following provisions:

(A) Section 502(f);

(B) Section 504(b);

(C) Section 511(b) and "(a)" where it appears after "SEC. 511.";

(D) Section 518(b) and "(a)" where it appears after "SEC. 518.";

(E) Section 528;

(F) Section 532;

(G) Section 543; and

(H) Section 555.

(2)(A)(i) The caption head of section 518 of such title V is amended to read as follows: "PROGRAM AUTHORIZED".

(ii) Such section 518 is amended by striking out "during the fiscal year ending June 30, 1969, and the succeeding fiscal year,".

(B) Effective on and after July 1, 1972, section 519(a) of such title V is amended by striking out that part of the first sentence which precedes ", the Commissioner" and inserting in lieu thereof the following: "From the amount available for grants under this subpart for any fiscal year".

(3) Section 525(b) of such Act is amended by striking out all that follows "federally supported programs" and inserting in lieu thereof a period.

(4) The Department of Health, Education, and Welfare shall, under the authority of section 401(c) and of part C of the General Education Provisions Act, submit to the Congress an estimate of the sums necessary to carry out section 502 of such title V.

FUNCTIONS OF, AND COMPENSATION FOR, THE DIRECTOR OF THE TEACHER CORPS

SEC. 142. (a) The second sentence of section 512 of the Higher Education Act of 1965 is amended to read as follows: "The Teacher Corps shall be headed by a Director who shall be compensated at the rate prescribed for grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code, and a Deputy Director who shall be placed in grade 17 of such General Schedule; and such positions shall be in addition to the number of positions placed in those grades under section 5108 of such title 5.".

(b) The third sentence of such section 512 is amended by inserting before the period at the end thereof the following: ", except that

(1) the Commissioner may delegate his functions under this subpart only to the Director, and (2) the Director and Deputy Director shall not be given any function authorized by law other than that granted by this subpart".

RETRAINING OF TEACHERS AND EMPLOYMENT OF TUTORS AND INSTRUCTIONAL ASSISTANTS

SEC. 143. (a)(1) Section 518 of the Higher Education Act of 1965 is amended (1) by striking out "to (1)" and inserting in lieu thereof "(1) to". (2) by striking out "and (2)" and inserting in lieu thereof "(2) to", and (3) and by adding the following before the period: ", (3) to employ high school and college students as tutors or instructional assistants for educationally disadvantaged children, (4) to compensate such tutors and instructional assistants at such rates as the Commissioner may determine to be consistent with prevailing practices under comparable federally supported work-study programs, and (5) to provide necessary training to teachers to enable them to teach other grades or other subjects in which such agencies have a teacher shortage".

(2) Section 520(a)(2) of such Act is amended (A) by striking out "and (C)" and inserting in lieu thereof "(C) programs of such agencies to employ high school and college students as tutors or instructional assistants for educationally disadvantaged children, (D) programs of such agencies to compensate such tutors and instructional assistants at such rates as the Commissioner may determine to be consistent with prevailing practices under comparable federally supported work-study programs, (E) programs of such agencies to provide necessary training to teachers to enable them to teach other grades or other subjects in which such agencies have a teacher shortage, and (F)".

(3) Section 520(a)(3) of such Act is amended by inserting "or for the retraining of teachers" immediately before the semicolon at the end thereof.

(b) The amendments made by subsection (a) shall be effective after, and only with respect to appropriations for fiscal years beginning after, June 30, 1972.

PROVISION FOR ADMINISTRATIVE EXPENSES FOR OPERATION OF STATE PLAN

SEC. 144. (a) Section 520(a)(2) of the Higher Education Act of 1965 is amended, in clause (F) thereof, by (1) striking out "3" and inserting in lieu thereof "5", and (2) by inserting before the semicolon: "or, $20,000, whichever is greater".

(b) The amendments made by subsection (a) shall be effective after, and only with respect to appropriations for fiscal years beginning after, June 30, 1972.

ELIMINATION OF CEILING ON EXPENDITURES FOR TEACHING AIDES

SEC. 145. (a) Section 520(a) of the Higher Education Act of 1965 is amended by striking out clause (5) thereof. Clauses (6) through (9) of such section 520(a), and all references thereto, are redesignated as clauses (5) through (8), respectively.

(b) The amendments made by subsection (a) shall be effective after and only with respect to appropriations for fiscal years beginning after, June 30, 1972.

TRAINING FOR TEACHERS AND AIDES IN PRIVATE SCHOOLS

SEC. 146. (a) Clause (5) of section 520(a) of the Higher Education Act of 1965 is amended by inserting "is teaching, or" after "because he".

(b) The amendment made by subsection (a) shall be effective after, and only with respect to appropriations for fiscal years beginning after, June 30, 1972.

IMPROVING TRAINING PROGRAMS FOR THE EDUCATION OF TEACHERS AND RELATED EDUCATIONAL PERSONNEL

SEC. 147. (a)(1) Section 531(b) of the Higher Education Act of 1965 is amended by striking out the period at the end thereof and inserting in lieu thereof "; and", and by adding at the end thereof the following new clause:

"(11) programs or projects (including cooperative arrangements or consortia between institutions of higher education, junior and community colleges, or between such institutions and State or local educational agencies and nonprofit education associations) for the improvement of undergraduate programs for preparing educational personnel, including design, development, and evaluation of exemplary undergraduate training programs, introduction of high quality and more effective curricula and curricular materials, and the provision of increased opportunities for practical teaching experience for prospective teachers in elementary and secondary schools.".

(2) Section 531(c) of such Act is amended by striking out the "or" at the end of clause (1) and the period at the end of clause (2) by inserting a semicolon and "or" at the end of clause (2), and by adding the following new clause:

"(3) projects or programs to improve undergraduate or other programs for training educational personnel.".

(b) The amendments made by subsection (a) shall be effective after, and only with respect to appropriations for fiscal years beginning after June 30, 1972.

SUPPORT OF TUTORS AND INSTRUCTIONAL ASSISTANTS

SEC. 148. (a)(1) Section 531(b) of the Higher Education Act of 1965 is amended by striking out the period at the end of clause (11) and inserting in lieu thereof a semicolon and the word "and", and by adding the following new clause:

"(12) programs or projects to employ tutors or instructional assistants in preschool, elementary school, or secondary school classes, especially for educationally disadvantaged children, and children with limited English speaking ability.".

(2) Section 531(c) of such Act is amended by striking out "or" at the end of clause (2), by striking out the period at the end of clause (3) and inserting a semicolon and the word "or" in lieu thereof, and by adding the following clause:

"(4) compensating tutors and instructional assistants at such rates as the Commissioner may determine to be consistent with the prevailing practices under comparable federally supported work-study programs.".

(b) The amendments made by subsection (a) shall be effective after, and only with respect to appropriations for fiscal years beginning after June 30, 1972.

PROGRAMS FOR TEACHERS OF MIGRANT CHILDREN

SEC. 149. (a)(1) Section 531(b) of the Higher Education Act of 1965 is further amended by striking out the word "and" after clause (11) and by striking out the period at the end of clause (12) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following new clause:

"(13) programs and projects designed to meet the need for the training of teachers for participation in education programs for migratory children of migratory agricultural workers, including teacher exchange programs.".

(2) Section 531(c) of such Act is amended by striking out "or" at the end of clause (3), by striking out the period at the end of clause (4) and inserting in lieu thereof a semicolon and the word "or", and by adding at the end thereof the following new clause (5):

"(5) such activities as may be necessary to carry out the purposes of clause (13) of subsection (b), to the extent that such activities are not inconsistent with the other provisions of this part.".

(b) The amendments made by subsection (a) shall be effective after June 30, 1972.

PART F—INSTRUCTIONAL EQUIPMENT

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS

SEC. 151. (a) Subsections (b) and (c) of section 601 and the Higher Education Act of 1965 are each amended by striking out "two succeeding fiscal years" and inserting in lieu thereof "succeeding fiscal years ending prior to July 1, 1975".

(b) The amendments made by subsection (a) of this section shall be effective after June 30, 1971.

PART G—ACADEMIC FACILITIES

TRANSFER OF THE PROVISIONS OF THE HIGHER EDUCATION FACILITIES ACT OF 1963

SEC. 161. (a) Title VII of the Higher Education Act of 1965 is amended to read as follows:

"TITLE VII—CONSTRUCTION OF ACADEMIC FACILITIES

"PART A—GRANTS FOR THE CONSTRUCTION OF UNDERGRADUATE ACADEMIC FACILITIES

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 701. (a) The Commissioner shall carry out a program of grants to institutions of higher education for the construction of academic facilities in accordance with this part.

"(b) For the purpose of making grants under this part, there are hereby authorized to be appropriated $936,000,000 for the fiscal year ending June 30, 1972 and for each of the succeeding fiscal years ending prior to July 1, 1975.

"(c) Of the sums appropriated pursuant to section 701(b), not less than 24 per centum nor more than 33⅓ per centum shall be reserved by the Commissioner and allotted among the States under section 702. The remainder of such sums shall be available for allotment among the States under section 703.

"PUBLIC COMMUNITY COLLEGES AND PUBLIC TECHNICAL INSTITUTES

"SEC. 702. (a) Sums reserved pursuant to the first sentence of section 701(c) shall be available for allotments to States for providing academic facilities for public community colleges and public technical institutes.

"(b) From the sums available for any fiscal year for the purposes of this section, the Commissioner shall allot to each State an amount which bears the same ratio to such sums as the product of—

"(1) the number of high school graduates of the State, and

"(2) the State's allotment ratio.

bears to the sum of the corresponding products for all the States, except that the amount allowed to any State shall not be less than $50,000.

"(b) From the sums available for any fiscal year for amounts allotted to a State under this section shall be available for the payment of the Federal share of the development cost of approved projects for the construction of academic facilities within such State for public community colleges and public technical institutes.

"(2) Any portion of a State's allotment under this section for any fiscal year for which applications from an institution qualified to receive grants under this section have not been received by the State Commission prior to January 1 of such fiscal year, shall if the State Commission so requests, be available for payment of the Federal share of the development cost of approved projects under section 703.

"(d) All amounts allotted under this section for any fiscal year which are not reserved as provided in section 701(c) by the close of the fiscal year for which they are allotted shall be reallotted by the Commissioner, on the basis of such factors as he determines to be equitable and reasonable, among the States which, as determined by

the Commissioner, are able to use without delay any amounts so reallotted for the purpose set forth in subsection (c)(1). Amounts reallotted under this subsection shall be available for reservation until the close of the fiscal year next succeeding the fiscal year for which they were originally allotted

"(e) For the purposes of clause (2) of subsection (b), the 'allotment ratio' for any State shall be 1.00 less the product of (A) 0.50 and (B) the quotient obtained by dividing the income per person for the State by the income per person for all the States (not including Puerto Rico, the Virgin Islands, American Samoa, and Guam), except that (i) the allotment ratio shall in no case be less than 0.33⅓ or more than 0.66⅔, (ii) the allotment ratio for Puerto Rico, the Virgin Islands, American Samoa, and Guam shall be 0.66⅔, and (iii) the allotment ratio of any State shall be 0.50 for any fiscal year if the Commissioner finds that the cost of school construction in such State exceeds twice the median of such costs in all the States as determined by him on the basis of statistics and data as the Commissioner shall deem adequate and appropriate. The allotment ratios shall be promulgated by the Commissioner as soon as possible after June 30, 1972, and annually thereafter, on the basis of the average of the incomes per person of the State and of all the States for the three most recent consecutive calendar years for which satisfactory data are available from the Department of Commerce.

"INSTITUTIONS OF HIGHER EDUCATION OTHER THAN PUBLIC COMMUNITY COLLEGES AND PUBLIC TECHNICAL INSTITUTES

"SEC. 703. (a) Sums appropriated pursuant to section 701(b) which remain after the reservation provided for in the first sentence of section 701(c) for any fiscal year shall be available for allotments to States for providing academic facilities for institutions of higher education other than institutions eligible for grants under section 702.

"(b) Sums available for the purposes of this section for any fiscal year shall be allotted among the States as follows:

"(1) The Commissioner shall allot to each State an amount which bears the same ratio to 50 per centum of such sums as the number of students enrolled in institutions of higher education in such States bears to the number of students so enrolled in all the States; and

"(2) The Commissioner shall allot to each State an amount which bears the same ratio to 50 per centum of such sums as the number of students enrolled in grades nine through twelve (both inclusive) of schools in such State bears to the total number of students so enrolled in all the States. For the purposes of this subsection, (A) the number of students enrolled in institutions of higher education shall be deemed to be equal to the sum of (i) the number of full-time students and (ii) the full-time equivalent of the number of part-time students as determined by the Commissioner in accordance with regulations; and (B) determinations as to enrollment under either clause (1) or clause (2) shall be made by the Commissioner on the basis of data for the most recent year for which satisfactory data with respect to such enrollment are available to him.

The amount allotted to any State under the preceding sentence for any fiscal year shall not be less than $50,000.

"(c)(1) Any amount allotted to a State under this section for any fiscal year shall, except as provided in paragraph (2), be available, in accordance with the provisions of this title, for payment of the Federal share of the development cost of approved projects for the construction of academic facilities within such State for institutions of higher education which are not eligible for grants under section 702.

"(2) Any portion of a State's allotment under this section for any fiscal year for which applications from an institution qualified to receive grants under this section have not been received by the State Commission prior to January 1 of such fiscal year, shall, if the State Commission so requests, be available for payment of the Federal share of the development cost of approved projects under section 702.

"(d) All amounts allotted under this section for any fiscal year which are not reserved by the close of the fiscal year for which they are allotted, shall be realloted by the Commissioner, on the basis of such factors as he determines to be equitable and reasonable, among the States which, as determined by the Commissioner, are able to use without delay any amounts so reallotted for the purposes of this section. Amounts reallotted under this subsection shall be available for reservation until the close of the fiscal year next succeeding the fiscal year for which they were originally allotted.

"STATE PLANS

"SEC. 704. (a) Any State desiring to participate in the grant program authorized by this part for any fiscal year shall submit for that year to the Commissioner through the State Commission a State plan for such participation. Such plan shall be submitted at such time, in such manner, and containing such information as may be necessary to enable the Commissioner to carry out his functions under this part and shall—

"(1) provide that it shall be administered by the State Commission;

"(2) set forth objective standards and methods which are consistent with basic criteria prescribed by regulations pursuant to section 706, for—

"(A) determining the relative priorities of eligible projects submitted by institutions of higher education within the State for the construction of academic facilities, and

"(B) determining the Federal share of the development cost of each such project;

"(3) provide that the fund apportioned for any fiscal year under section 702 or 703 shall be used only for the purposes set forth therein;

"(4) provide for—

"(A) assigning priorities solely on the basis of such criteria, standards, and methods to eligible projects submitted to the State Commission and found by it otherwise approvable under the provisions of this part, and

"(B) approving and recommending to the Commissioner, in the order of such priority, applications covering such eligible projects, and for certifying to the Commissioner the Federal share of the development cost of the project involved;

"(5) provide for affording to every applicant which has submitted a project to the State Commission on opportunity for a fair hearing before the State Commission as to the priority assigned to such project, or as to any other determination of the State Commission adversely affecting such applicant; and

"(6) provide for—

"(A) such fiscal control and fund accounting procedure as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the State Commission under this part, and

"(B) making such reports, in such form and containing such information, as may be reasonably necessary to enable the Commissioner to perform his functions under this part.

"(b) The Commissioner shall approve any State plan submitted under this section if he determines that it complies with the provisions of this section and other appropriate provisions of this title.

"ELIGIBILITY FOR GRANTS

"SEC. 705. (a) Except as is provided in subsection (b), an institution of higher education shall be eligible for a grant under this part only if the State Commission determines, in accordance with criteria prescribed by regulation, that the construction project for which assistance is sought will, either alone or together with other construction to be undertaken within a reasonable time, result in—

"(1) a substantial expansion of, or

"(2) in the case of a new institution, the creation of, urgently needed (A) enrollment capacity, (B) the capacity to provide health care for students and institutional personnel to provide health care for students and institutional personnel, or (C) capacity to carry out extension and continuing education programs on the campus of such institution.

"(b) If the Commissioner determines, in accordance with criteria established by regulation, that the student enrollment capacity of an institution of higher education would decrease if an urgently needed academic facility is not constructed, the construction of such a facility may be considered, for the purposes of this section, to result in an expansion of the institution's student enrollment capacity.

"BASIC CRITERIA FOR DETERMINING PRIORITIES AND FEDERAL SHARE

"SEC. 706. (a)(1) The Commissioner shall, by regulation, prescribe basic criteria to which the provisions of State plans setting forth standards and methods for determining relative priorities of eligible construction projects, and the application of such standards and methods to such projects under such plans, shall be subject.

"(2) Such basic criteria shall, at least—

"(A) be such as will best tend to achieve the objectives of this part, while leaving opportunity and flexibility to State Commissions for the development of State plan standards and methods that will best accommodate the varied needs of institutions in the several States;

"(B) give special consideration to the expansion of undergraduate enrollment capacity; and

"(C) give consideration to the expansion of capacity to provide needed health care to students.

"(3) Subject to paragraph (2), such regulations may establish additional and appropriate basic criteria, including—

"(A) provision for considering the degree to which applicant institutions are effectively utilizing existing facilities;

"(B) provision for allowing State plans to group, or to allow grouping, in a reasonable manner, facilities or institutions according to functional or educational type for priority purposes; and

"(C) in view of the national objectives of this title, provision for considering the degree to which applicant institutions serve students from two or more States or from outside the United States.

"(4) In no event shall such basic criteria permit the readiness of an institution to admit out-of-State students to be considered as a priority adverse to such institution.

"(b)(1) The Commissioner shall prescribe, by regulation, the base criteria for determining the Federal share of the development cost of any eligible project under this part within a State, to which criteria the applicable standards and methods set forth in the State plan for such State shall conform.

"(2) In no case shall such basic criteria permit the Federal share to exceed 50 per centum of the development cost of a project, except in the case of a developing institution approved pursuant to section 302(b) in which case such percentage may not be in excess of 66⅔ per centum.

"(c) Section 553 of title 5, United States Code, shall apply to the prescription of regulations under this section, notwithstanding clause (2) of subsection (a) thereof.

"APPLICATIONS FOR GRANTS; AMOUNT OF GRANTS

"SEC. 707. (a) (1) Any institution of higher education which desires to receive a grant under this part shall submit an application therefor at such time or times, in such manner, and containing such information as the Commissioner shall prescribe by regulation.

"(2) The Commissioner shall approve an application for a construction project under this part if he determines that—

"(A) it meets the requirements prescribed under paragraph (1);

"(B) the project for which assistance is sought is an eligible project under section 705;

"(C) such project has been submitted through, and been approved and recommended by, the appropriate State Commission;

"(D) such State Commission has certified to the Commissioner, in accordance with the State plan, the Federal share of the development cost of the project, and sufficient funds to pay such Federal share are available from the applicable apportionment of the State;

"(E) such project has, pursuant to the State plan, been assigned a priority that is higher than that assigned to all other projects within the State which are chargeable to the same apportionment, and meet the requirements of this section, and for which Federal funds have not yet been reserved;

"(F) the construction to be carried out under the application will be undertaken in a timely and economic manner and will not be of elaborate or extravagant design or materials;

"(G) in the case of a student health care facility, no assistance will be provided for such facility under title IV of the Housing Act of 1950; and

"(H) the application contains assurances or is supported by satisfactory assurances—

"(i) that title to the site is in accordance with regulations of the Commissioner relating thereto,

"(ii) that Federal funds received by the applicant will be solely used for defraying the development cost of the project covered by the application,

"(iii) that sufficient funds will be available to meet the non-Federal portion of such cost and to provide for the effective use of the academic facility upon completion, and

"(iv) that the facility will be used as an academic facility for at least the period of the Federal interest therein, as provided in section 781.

"(b) Amendments to applications submitted under this section shall, except as the Commissioner may otherwise provide by regulations, be subject to approval in the same manner as original applications.

"(c) (1) Upon his approval of any application under this section, the Commissioner shall reserve from the applicable allotment available therefor, the amount of such grant, which shall be equal to the Federal share of the development cost of the project covered by the application, and, in accordance with regulations, shall pay the amount reserved to the applicant.

"(2) Upon approval of an amendment of an application, or revision of the estimated development cost of a project, for which there has been a reservation made under paragraph (1), the Commissioner may adjust the amount so reserved, accordingly. If an adjustment under the first sentence of this paragraph results in a greater amount being reserved, he may reserve the Federal share of the added cost only from the applicable allotment available at the time of such approval.

"ADMINISTRATION OF STATE PLANS; JUDICIAL REVIEW

"SEC. 708. (a) (1) The Commissioner shall not finally disapprove any State plan submitted under this part, or any modification thereof, without first affording the State Commission submitting the plan reasonable notice and opportunity for a hearing.

"(2) Whenever the Commissioner, after reasonable notice and opportunity for hearing to the State Commission administering a State plan approved under this part, finds—

"(A) that the State plan has been so changed that it no longer complies with the provisions of section 704, or

"(B) that in the administration of the plan there is a failure to comply substantially with any such provision,

the Commissioner shall notify such State Commission that the State will not be regarded as eligible to participate in the program under this part until he is satisfied that there is no longer any such failure to comply.

"(b) (1) If any State is dissatisfied with the Commissioner's final action with respect to the approval of its State plan submitted under section 704, or with his final action under subsection (a), such State may appeal to the United States Court of appeals for the circuit in which such State is located. The summons and notice of appeal may be served at any place in the United States. The Commissioner shall forthwith certify and file in the court the transcript of the proceedings and the record on which he based his action.

"(2) The findings of fact by the Commissioner if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the transcript and record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(3) The court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in title 28, United States Code, section 1254.

"PART B—GRANTS FOR CONSTRUCTION OF GRADUATE ACADEMIC FACILITIES

"AUTHORIZATION

"SEC. 721. (a) The Commissioner shall carry out a program of making grants to institutions of higher education to assist them in improving existing graduate schools and cooperative graduate centers, and in establishing graduate schools and cooperative graduate centers of excellence, in order to increase the supply of highly qualified personnel needed by communities, industries, and governments and for teaching and research.

"(b) For the purpose of making grants under this part, there are authorized to be appropriated $60,000,000 for each of the fiscal years ending June 30, 1972, and June 30, 1973, and $90,000,000 for each of the succeeding fiscal years ending prior to July 1, 1975.

"APPLICATION FOR, AND AMOUNT OF, GRANTS

"SEC. 722. (a) (1) Any institution of higher education desiring to receive a grant under this part shall submit an application therefor at such time, in such manner, and containing such information as the Commissioner may require.

"(2) In determining whether to approve applications under this section, the order in which to approve such applications, and the amount of grants, the Commissioner shall give consideration to the extent to which the projects for which assistance is sought will contribute toward achieving the objectives of this part, and the extent to which they will aid in attaining a wider distribution of graduate schools and cooperative graduate centers throughout the States. In no case shall the total of payments from appropriations for any fiscal year pursuant to section 721 made with respect to projects in any State exceed an amount equal to 12½ per centum of such appropriations.

"(3) For the purposes of this section, the term 'institution of higher education' includes cooperative graduate center boards.

"(b) The Commissioner shall not approve any application under this section until he has obtained the advice and recommendations of a panel of specialists who are not regular full-time employees of the Federal Government and who are competent to evaluate such application.

"(c) No grant under this part may be in an amount in excess of 50 per centum of the development cost of the project covered by the application.

"PART C—LOANS FOR CONSTRUCTION OF ACADEMIC FACILITIES

"AUTHORIZATION

"SEC. 741. (a) (1) The Commissioner shall carry out a program of making and insuring loans, in accordance with the provisions of this part.

"(2) The Commissioner is authorized to make loans to institutions of higher education and to higher education building agencies, which, in the case of undergraduate facilities, have submitted approvable applications under part A, for the construction of academic facilities and to insure loans.

"(b) For the purpose of making payments into the fund established under section 744, there are hereby authorized to be appropriated $200,000,000 for the fiscal year ending June 30, 1972, and for each of the succeeding fiscal years ending prior to July 1, 1975. Sums appropriated pursuant to this subsection for any fiscal year shall be available without fiscal year limitations.

"ELIGIBILITY CONDITIONS, AMOUNTS, AND TERMS OF LOANS

"SEC. 742. (a) No loan pursuant to this part shall be made unless the Commissioner finds (1) that not less than 20 per centum of the development cost of the facility will be financed from non-Federal sources, (2) that the applicant is unable to secure the amount of such loan from other sources upon terms and conditions equally as favorable as the terms and conditions applicable to loans under this part, (3) that the construction will be undertaken in an economical manner and that it will not be of elaborate or extravagant design or materials, and (4) that, in the case of a project to construct an infirmary or other facility designed to provide primarily for outpatient care of students and institutional personnel, no financial assistance will be provided such project under title IV of the Housing Act of 1950.

"(b) A loan pursuant to this part shall be secured in such manner and shall be repaid within such period not exceeding fifty years, as may be determined by the Commissioner; and it shall bear interest at (1) a rate determined by the Commissioner which shall not be less than a per annum rate that is one-quarter of 1 percentage point above the average annual interest rate on all interest-bearing obligations of the United States forming a part of the public debt as computed at the end of the preceding fiscal year, adjusted to the nearest one-eighth of 1 per centum, or (2) the rate of 3 per centum per annum, whichever is the lesser.

"GENERAL PROVISION FOR LOAN PROGRAM

"SEC. 743. (a) Financial transactions of the Commissioner under this part, except with respect to administrative expenses, shall be final and conclusive on all officers of the Government and shall not be reviewable by any Court.

"(b) In the performance of, and with respect to, the functions, powers, and duties

vested in him by this part, the Commissioner may—

"(1) prescribe such rules and regulations as may be necessary to carry out the purposes of this part;

"(2) sue and be sued in any court of record of a State having general jurisdiction or in any district court of the United States, and such district courts shall have jurisdiction of civil actions arising under this part without regard to the amount in controversy, and any action instituted under this subsection by or against the Commissioner shall survive notwithstanding any change in the person occupying the office of Commissioner or any vacancy in such office; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Commissioner or property under his control, and nothing herein shall be construed to except litigation arising out of activities under this part from the application of sections 507(b) and 517 and 2679 of title 28, United States Code;

"(3) foreclose on any property or commence any action to protect or enforce any right conferred upon him by any law, contract, or other agreement, and bid for and purchase at any foreclosure or any other sale any property in connection with which he has made a loan pursuant to this part; and, in the event of any such acquisition (and notwithstanding any other provisions of law relating to the acquisition, handling, or disposal of real property by the United States), complete, administer, remodel and convert, dispose of, lease, and otherwise deal with, such property; except that (1) such action shall not preclude any other action by him to recover any deficiency in the amounts loaned and (2) any such acquisition of real property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair the cvil rights under the State or local laws of the inhabitants on such property;

"(4) sell or exchange at public or private sale, or lease, real or personal property, and sell or exchange any securities or obligations, upon such terms as he may fix;

"(5) subject to the specific limitations in this part, consent to the modification, with respect to the rate of interest, time of payment of any installment of principal or interest, security, or any other term of any contract or agreement to which he is a party or which has been transferred to him pursuant to this section; and

"(6) include in any contract or instrument made pursuant to this part such other covenants, conditions, or provisions (including provisions designed to assure against use of the facility, constructed with the aid of a loan under this part, for purposes described in section 782(1)), as he may deem necessary to assure that the purpose of this part will be achieved.

"REVOLVING LOAN FUND AND INSURANCE FUND

"SEC. 744. (a) There is hereby created within the Treasury a separate fund for higher education academic facilities loans and loan insurance (hereafter in this section called the 'fund') which shall be available to the Commissioner without fiscal year limitation as a revolving fund for the purposes of making loans and insuring loans under this part.

"(b)(1) The Commissioner shall transfer to the fund available appropriations provided under section 741(b) to provide capital for the fund. All amounts received by the Commissioner as interest payments or repayments of principal on loans, and any other moneys, property, or assets derived by him from his operations in connection with this part, including any moneys derived directly or indirectly from the sale of assets, or benefical interests or participations in assets of the fund, shall be deposited in the fund.

"(2) All loans, expenses, and payments pursuant to operations of the Commissioner under this part shall be paid from the fund, including (but not limited to) expenses and payments of the Commissioner in connection with sale, under section 302(c) of the Federal National Mortgage Association Charter Act, of participations in obligations acquired under this part. From time to time, and at least at the close of each fiscal year, the Commissioner shall pay from the fund into the Treasury as miscellaneous receipts interest on the cumulative amount of appropriations paid out for loans under this part or available as capital to the fund, less the average undisbursed cash balance in the fund during the year. The rate of such interest shall be determined by the Secretary of the Treasury, taking into consideration the average market yield during the month preceding each fiscal year on outstanding Treasury obligations of maturity comparable to the average maturity of loans made from the fund. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest. If at any time the Commissioner determines that moneys in the fund exceed the present and any reasonably prospective future requirements of the fund, such excess shall be available for the purposes of part A and shall be deemed to have been appropriated pursuant to section 701(b).

"ANNUAL INTEREST GRANTS

"SEC. 745. (a) To assist institutions of higher education and higher education building agencies, which, in the case of undergraduate facilities, have an approvable application submitted under part A, to reduce the cost of borrowing from other sources for the construction of academic facilities, the Commissioner may make annual interest grants to such institutions and agencies.

"(b) Annual interest grants to an institution of higher education or higher education building agency with respect to any academic facility shall be made over a fixed period not exceeding forty years, and provision for such grants shall be embodied in a contract guaranteeing their payment over such period. Each such grant shall be in an amount not greater than the difference between (1) the average annual debt service which would be required to be paid, during the life of the loan, on the amount borrowed from other sources for the construction of such facilities, and (2) the average annual debt service which the institution would have been required to pay, during the life of the loan, with respect to such amounts if the applicable interest rate were the maximum rate specified in section 744(b)(2). The amount on which such grant is based shall be approved by the Secretary.

"(c)(1) There are hereby authorized to be appropriated to the Commissioner such sums as may be necessary for the payment of annual interest grants to institutions of higher education and higher education building agencies in accordance with this section.

"(2) Contracts for annual interest grants under this section shall not be entered into in an aggregate amount greater than is authorized in appropriation Acts; and in any event the total amount of annual interest grants which may be paid to institutions of higher education and higher education building agencies in any year pursuant to contracts entered into under this section shall not exceed $5,000,000 which amount shall be increased by $6,750,000 on July 1, 1969, and by $13,500,000 on July 1, 1970 and on July 1 of each of the four succeeding years.

"(d) Not more than 12½ per centum of the funds provided for in this section for grants may be used within any one State.

"(e) No annual interest grant pursuant to this section shall be made unless the Commissioner finds (1) that not less than 10 per centum of the development costs of the facility will be financed from non-Federal sources, (2) that the applicant is unable to secure a loan in the amount of the loan with respect to which the annual interest grant is to be made, from other sources upon terms and conditions equally as favorable as the terms and conditions applicable to loans under this title, and (3) that the construction will be undertaken in an economical manner and that it will not be of elaborate or extravagant design or materials. For purposes of this section, a loan with respect to which an interest grant is made under this section shall not be considered financing from a non-Federal source. For purposes of the other provisions of this title, such a loan shall be considered financing from a non-Federal source.

"ACADEMIC FACILITIES LOAN INSURANCE

"SEC. 746. (a)(1) In order to assist institutions of higher education and higher education building agencies to procure loans for the construction of academic facilities, the Commissioner may insure the payment of interest and principal on such loans if such institutions and agencies meet, with respect to such loans, criteria prescribed by or under section 745 for the making of annual interest grants under such section.

"(2) No loan insurance under paragraph (1) may apply to so much of the principal amount of any loan as exceeds 90 per centum of the development cost of the academic facility with respect to which such loan was made.

"(b)(1) The United States shall be entitled to recover from any institution or agency to which loan insurance has been issued under this section the amount of any payment made pursuant to that insurance, unless the Commissioner for goood cause waives its right of recovery. Upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payment with respect to which the payment was made.

"(2) Any insurance issued by the Commissioner pursuant to subsection (a) shall be incontestable in the hands of the institution or agency on whose behalf such insurance is issued, and as to any agency, organization, or individual who makes or contracts to make a loan to such institution or agency in reliance thereon, except for fraud or misrepresentation on the part of such institution or agency or on the part of the agency, organization, or individual who makes or contracts to make such loan.

"(c) Insurance may be issued by the Commissioner under subsection (a) only if he determines that the terms, conditions, maturity, security (if any), and schedule and amounts of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable and in accord with regulations, including a deterimnation that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Commissioner determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States. The Commissioner may charge a premium for such insurance in an amount reasonably determined by him to be necessary to cover administrative expenses and probable losses under subsections (a) and (b). Such insurance shall be subject to such further terms and conditions as the Commissioner determines to be necessary.

"PART D—ASSISTANCE IN MAJOR DISASTER AREAS

"AUTHORIZATION

"SEC. 761. (a) The Commissioner shall carry out a program of financial assistance to public institutions of higher education, in accordance with the provisions of this part.

"(b) There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of this part.

"ASSISTANCE FOR CONSTRUCTION OF ACADEMIC FACILITIES

"SEC. 762. (a) If the Director of the Office of Emergency Planning determines that a public institution of higher education is, in whole or in part, within an area which, after June 30, 1971, and before July 1, 1975, has suffered a disaster which is a major disaster, and if the Commissioner determines with respect to such institution that—

"(1) the academic facilities of such institution have been destroyed or seriously damaged as a result of the disaster;

"(2) such institution is exercising due diligence in availing itself of State and other financial assistance available for restoration or replacement of such facilities; and

"(3) the institution does not have sufficient funds available from such other sources, including proceeds of insurance on the facilities, to provide for the restoration or replacement of such facilities;

the Commissioner is authorized to provide such assistance to such institution as is provided in subsection (b).

"(b)(1) Assistance under this section shall be a grant to an eligible institution, as determined under subsection (a), of an amount necessary to enable the institution to carry out the construction necessary to restore or replace the academic facilities determined under clause (1) of subsection (a) to be damaged or destroyed.

"(2) The maximum amount of a grant under this section shall not exceed the cost of construction incident to the restoration or replacement of the facilities determined to be damaged or destroyed under clause (1) of subsection (a) less the amount of additional assistance determined under clause (3) of subsection (a) to be available.

"(c)(1) Assistance under this section may include a grant of an amount necessary to enable the institution to lease, or otherwise obtain the use of, such facilities as are needed to replace, temporarily, facilities which have been made unavailable as a result of a major disaster.

"(2) An institution shall be eligible for assistance under this subsection if it qualifies for assistance under subsection (a), whether or not it receives assistance under subsection (b).

"EQUIPMENT AND SUPPLIES

"SEC. 763. If an institution is eligible for assistance under section 762(a), the Commissioner is authorized, whether or not such institution receives assistance under section 762(b), to make a grant to such institution of not in excess of an amount he determines necessary to replace equipment, maintenance supplies, and instructional supplies (including books, and curricular and program materials) destroyed or seriously damaged as a result of the major disaster.

"REPAYABLE ASSISTANCE IN LIEU OF A GRANT

"SEC. 764. If the Commissioner's determinations under clauses (2) and (3) of section 762(a) indicate that financial resources will become available to an institution otherwise qualified for assistance under section 762 at some future date or dates, he is authorized, subject to such terms and conditions as may be in the public interest, to extend assistance to such institution under section 762(b), 762(c), or 763 (or all such sections) with an agreement with such institution which provides that the institution will repay part or all of the funds received by it under this part.

"APPLICATIONS

"SEC. 765. No payment may be made to a public institution of higher education for academic facilities under this part unless an application therefor is submitted through the appropriate State Commission and is filed with the Commissioner in accordance with regulations prescribed by him. In determining the order in which such applications shall be approved, the Commissioner shall consider the relative educational and financial needs of the institutions which have submitted approvable applications. No payment may be made under section 762(b) unless the Commissioner finds, after consultation with the State Commission, that the project or projects with respect to which it is made are not inconsistent with overall State plans, submitted under section 704(a), for the construction of academic facilities. All determinations made by the Commissioner under this part shall be made only after consultation with the appropriate State Commission.

"DEFINITIONS

"SEC. 766. For the purposes of this part—

"(1) the term 'major disaster' means a disaster determined to be a major disaster as defined in section 2(a) of the Act of September 30, 1950 (42 U.S.C. 1855a(a)); and

"(2) an institution of higher education shall be deemed to be a 'public institution of higher education' if such institution is found by the Commissioner to be under public supervision and control.

"PART E—GENERAL

"RECOVERY OF PAYMENTS

"SEC. 781. (a) The Congress hereby finds and declares that, if a facility constructed with the aid of a grant or grants under part A or B of this title is used as an academic facility for twenty years following completion of such construction, the public benefit accruing to the United States from such use will equal in value the amount of such grant or grants. The period of twenty years after completion of such construction shall therefore be deemed to be the period of Federal interest in such facility for the purposes of this title.

"(b) If, within twenty years after completion of construction of an academic facility which has been constructed in part with a grant or grants under part A or B of this title—

"(1) the applicant (or its successor in title or possession) ceases or fails to be a public or nonprofit institution, or

"(2) the facility ceases to be used as an academic facility, or the facility is used as a facility excluded from the term 'academic facility',

the United States shall be entitled to recover from such applicant (or successor) an amount which bears to the then value of the facility (or so much thereof as constituted an approved project or projects) the same ratio as the amount of such Federal grant or grants bore to the development cost of the facility financed with the aid of such grant or grants. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated.

"(c) Notwithstanding the provisions of subsections (a) and (b), no facility constructed with assistance under this title shall ever be used for religious worship or a sectarian activity or for a school or department of divinity.

"DEFINITIONS

"SEC. 782. The following definitions apply to terms used in this title:

"(1)(A) Except as provided in subparagraph (B) of this paragraph, the term 'academic facilities' means structures suitable for use as classrooms, laboratories, libraries, and related facilities necessary or appropriate for instruction of students, or for research, or for administration of the educational or research programs, of an institution of higher education, and maintenance, storage, or utility facilities essential to operation of the foregoing facilities. For purposes of parts A, C, and D, such term includes infirmaries or other facilities designed to provide primarily for outpatient care of student and instructional personnel. Plans for such facilities shall be in compliance with such standards as the Secretary of Health, Education, and Welfare may prescribe or approve in order to insure that facilities constructed with the use of Federal funds under this title shall be, to the extent appropriate in view of the uses to be made of the facilities, accessible to and usable by handicapped persons.

"(B) The term 'academic facilities' shall not include (i) any facility intended primarily for events for which admission is to be charged to the general public, or (ii) any gymnasium or other facility specially designed for athletic or recreational activities, other than for an academic course in physical education or where the Commissioner finds that the physical integration of such facility used or to be used for sectarian included under this title is required to carry out the objectives of this title, or (iii) any facility used or to be used for sectarian instruction or as a place for religious worship, or (iv) any facility which (although not a facility described in the preceding clause) is used or to be used primarily in connection with any part of the program of a school or department of divinity, or (v) any facility used or to be used by a school of medicine, school of dentistry, school of osteopathy, school of pharmacy, school of optometry, school of podiatry, or school of public health as these terms are defined in section 724 of the Public Health Service Act, or a school of nursing as defined in section 843 of that Act.

"(2) The term 'construction' means (A) erection of new or expansion of existing structures, and the acquisition and installation of initial equipment therefor; or (B) acquisition of existing structures not owned by the institution involved; or (C) rehabilitation, alteration, conversion, or improvement (including the acquisition and installation of initial equipment, or modernization or replacement of built-in equipment) of existing structures; or (D) a combination of any two or more of the foregoing. For the purposes of the preceding sentence, the term 'equipment' includes, in addition to machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, all other items necessary for the functioning of a particular facility as an academic facility, including necessary furniture, except books, curricular and program materials, and items of current operating expense such as fuel, supplies, and the like; the term 'initial equipment' means equipment acquired and installed in connection with construction as defined in paragraph (2)(A) or (B) or, in cases referred to in paragraph (2)(C), equipment acquired and installed as part of the rehabilitation, alteration, conversion, or improvement of an existing structure, which structure would otherwise not be adequate for use as an academic facility; and the terms 'equipment', 'initial equipment', and 'built-in equipment' shall be more particularly defined by the Commissioner by regulation. For the purposes of clause (C) in the first sentence of this paragraph, the term 'rehabilitation, alteration, conversion, or improvement' includes such action as may be necessary to provide for the architectural needs of, or to remove architectural barriers to, handicapped persons with a view toward increasing the accessibility to, and use of, academic facilities by such persons.

"(3)(A) The term 'development cost', with respect to an academic facility, means the amount found by the Commissioner to be the cost, to the applicant for a grant or loan under this title, of the construction involved and the cost of necessary acquisition of the land on which the facility is located and of necessary site improvements to permit its

use for such facility. There shall be excluded from the development cost—

"(i) in determining the amount of any grant under part A or B, an amount equal to the sum of (I) any Federal grant which the institution has obtained, or is assured of obtaining, under any law other than this title, with respect to the construction that is to be financed with the aid of a grant under part A or B, and (II) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant; and

"(ii) in determining the amount of any loan under part C, an amount equal to the amount of any Federal financial assistance which the institution has obtained, or is assured of obtaining, under any law other than this title, with respect to the construction that is to be financed with the aid of a loan under part C.

"(B) In determining the development cost with respect to an academic facility, the Commissioner may include expenditures for works of arts for the facility of not to exceed 1 per centum of the total cost (including such expenditures) to the applicant of construction of, and land acquisition and site improvements for, such facility.

"(4) The term 'Federal share' means, except as provided in section 706(b)(2), in the case of any project a percentage (as determined under the applicable State plan) not in excess of 50 per centum of its development cost.

"(5) The term 'higher education building agency' means (A) an agency, public authority, or other instrumentality of a State authorized to provide, or finance the construction of, academic facilities for institutions of higher education (whether or not also authorized to provide or finance other facilities for such or other educational institutions, or for their students or faculty), or (B) any corporation (no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual) (I) established by an institution of higher education for the sole purpose of providing academic facilities for the use of such institution, and (II) upon dissolution of which, all title to any property purchased or built from the proceeds of any loan made under part C will pass to such institution.

"(6) The term 'public community college and public technical institute' means an institution of higher education which is under public supervision and control, and is organized and administered principally to provide a two-year program which is acceptable for full credit toward a bachelor's degree, or a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge; and the term includes a branch of an institution of higher education offering four or more years of higher education which is located in a community different from that in which its parent institution is located.

"(7) The term 'cooperative graduate center' means an institution or program created by two or more institutions of higher education which will offer to the students of the participating institutions of higher education graduate work which could not be offered with the same proficiency or economy (or both) at the individual institution of higher education. The center may be located or the program carried out on the campus of any of the participating institutions or at a separate location.

"(8) The term 'cooperative graduate center board' means a duly constituted board established to construct and maintain the cooperative graduate center and coordinate academic programs. The board shall be composed of representatives of each of the institutions of higher education participating in the center and of the community involved. At least one-third of the board's members shall be community representatives. The board shall elect by a majority vote a chairman from among its membership.".

(b)(1) The programs authorized by title VII of the Higher Education Act of 1965 shall be deemed to be a continuation of the comparable programs authorized by the Higher Education Facilities Act of 1963.

(2) Effective July 1, 1972, the Higher Education Facilities Act of 1963 is amended by striking out titles I and II thereof.

(3) Effective July 1, 1971, such Act is amended by striking out section 306 thereof.

(4) The revolving fund created by section 744 of the Higher Education Act of 1965 shall be deemed to be a continuation of the revolving fund created by section 305 of the Higher Education Facilities Act of 1963. Any sums in the fund for higher education academic facilities created by such section 305 on the date of enactment of this Act shall be transferred to the fund created by section 744 of the Higher Education Act of 1965, and all such funds shall be deemed to have been made available for such fund. Notwithstanding any other provision of law, unless enacted in specific limitation of the provisions of this sentence, any sums appropriated pursuant to section 303(c) of the Higher Education Facilities Act of 1963 for any fiscal year ending prior to July 1, 1972, which have not been loaned under title III of that Act of 1963 shall be deemed to have been appropriated pursuant to section 741(b) of the Higher Education Act of 1965 for the fiscal year ending June 30, 1972.

EXTENSION OF AUTHORIZATIONS OF APPROPRIATIONS FOR THE HIGHER EDUCATION FACILITIES ACT OF 1963

SEC. 162. (a) Sections 101(b), 201, 303(c), and 408(a) of the Higher Education Facilities Act of 1963 are each amended by striking out "July 1, 1971" and inserting in lieu thereof "July 1, 1972".

(b) The amendments made by subsection (a) of this section shall be effective after June 30, 1971.

STATE HIGHER EDUCATION COMMISSIONS

SEC. 163. (a) Section 1202 of the Higher Education Act of 1965, having been superseded by section 425 of the General Education Provisions Act, is hereby repealed.

(b) Title XII of such Act is amended by adding after section 1201 the following new section:

"STATE HIGHER EDUCATION COMMISSIONS

"SEC. 1202 (a)(1) Any State desiring to participate, after June 30, 1972, in any program authorized by this Act which requires the use of a State Commission in the administration thereof shall designate, for such purpose, a State agency which is broadly representative of the public and of the public and private institutions of higher education (including public community colleges and public technical institutes) in the State. If, in the case of any State, no such State agency exists, such State shall create such an agency.

"(2) Each State Commission shall be authorized to, and shall carry out, such functions as may be required or authorized with respect to the program in which the State is participating. The Commissioner shall pay to each State Commission the amount necessary for the proper and efficient administration by such Commission of each State plan which is approved by him under a program authorized by this Act which requires the use of a State Commission in the administration of such program.

"(3) The Commissioner is authorized to make grants, upon such terms and conditions as the Commissioner determines will best further the purposes of title VII, to State Commissions for conducting comprehensive planning to determine construction needs of institutions of higher education.

"(b)(1) The Commissioner is authorized to make grants to State Commissions to enable them to make comprehensive inventories of, and studies with respect to, the postsecondary educational resources in the States and means by which such resources may be better planned and coordinated, improved, expanded, or altered in order to insure that all persons within the States who desire, and who can benefit from, postsecondary education may have an opportunity to do so.

"(2) The Commissioner is further authorized to make grants to State Commissions to enable them to conduct comprehensive planning for statewide postsecondary education systems which will achieve the purpose set forth in paragraph (1). Such planning shall include a consideration of a system of comprehensive public community colleges as a means of achieving such purpose.

"(c) There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.".

(c)(1) Unless a State otherwise creates or designates a State Commission for the purposes of section 1202 of the Higher Education Act of 1965 prior to June 30, 1972, the State Commission of any State, designated or established pursuant to that part of section 105(a) of the Higher Education Facilities Act of 1963 which precedes clause (1) thereof, which exists on June 30, 1972, shall become, and be deemed to be, the State Commission of that State pursuant to section 1202 of the Higher Education Act of 1965 for the purposes of such section 1202(a). The State Commissions under such section 1202 shall be successor State Commission to those designated or established under such part of such section 105(a) for the purposes of such section 1202(a).

(2) On July 1, 1972, all functions, powers, duties, and responsibilities vested in any State Commission established pursuant to such section 105(a) on June 30, 1972 shall be vested in their successor State Commissions.

(3) All orders, determinations, rules, procedures, or other decisions of States Commissions under such part of such section 105(a), which are in effect on June 30, 1972, shall continue to be in effect and shall be deemed to be orders, determinations, rules, procedures, or other decisions of their successor State Commissions until changed or modified, in accordance with law, by such successor State Commissions.

(4) All personnel, assets, liabilities, contracts, property, and records as are determined by the Commissioner to be necessary for the transitions required under this section, are, effective July 1, 1972, transferred to successor State Commissions.

(5) No successor State Commission under this subsection shall be eligible to receive a grant under section 1202(b) of the Higher Education Act of 1965, prior to sixty days after the end of the first legislative session of the State legislature of the State for which it is the State Commission which begins after the date of enactment of this Act.

PART H—NETWORKS FOR KNOWLEDGE EXTENSION

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS

SEC. 171. Section 802 of the Higher Education Act of 1965 is amended by inserting before the period at the end thereof "and for each of the succeeding fiscal years ending prior to July 1, 1975".

INCLUSION OF LAW AND GRADUATE PROFESSIONAL SCHOOLS

SEC. 172. (a)(1) Section 801(a) of the Higher Education Act of 1965 is amended by

striking out the first sentence thereof and inserting in lieu thereof the following: "The Commissioner shall carry out a program of encouraging institutions of higher education (including law and other graduate professional schools) to share, to the optimal extent, their technical and other educational and administrative facilities and resources in accordance with this title. The Commissioner is authorized to make grants to, and contracts with, institutions of higher education to pay all or part of the cost of cooperative arrangements and of pilot or demonstration projects designed to accomplish the purpose set forth in the first sentence of this subsection.".

(2) Clause (1)(A) of section 801(b) of such Act is amended by inserting after "libraries" a comma and "including law libraries", and by inserting after "collections" a comma and "including law library collections,".

(b) The amendments made by subsection (a) shall be effective after June 30, 1972.

PART I—GRADUATE PROGRAMS AND COMMUNITY COLLEGE PROGRAMS

EXTENSION OF TITLES IX AND X OF THE HIGHER EDUCATION ACT OF 1965

SEC. 181. (a)(1) The first sentence of section 925 of the Higher Education Act of 1965 is amended to read as follows: "There is authorized to be appropriated $13,000,000 for the fiscal year ending June 30, 1972.".

(2) The amendment made by paragraph (1) shall be effective after June 30, 1971.

(b)(1) Section 1002 of the Higher Education Act of 1965 is amended by striking out "for the fiscal year ending June 30, 1971" and inserting in lieu thereof "each for the fiscal years ending June 30, 1971, and June 30, 1972".

(2) The amendment made by paragraph (1) shall be effective after June 30, 1971.

NEW TITLE IX OF THE HIGHER EDUCATION ACT OF 1965 (GRADUATE PROGRAMS)

SEC. 182. (a) The Higher Education Act of 1965 is amended by striking out title IX and inserting in lieu thereof the following:

"TITLE IX—GRADUATE PROGRAMS

"PART A—GRANTS TO INSTITUTIONS OF HIGHER EDUCATION

"PURPOSES; AUTHORIZATION

"SEC. 901. (a) It is the purpose of this part to make financial assistance available to institutions of higher education—

"(1) to strengthen and improve the quality of graduate and professional programs leading to an advanced degree in such institutions and to increase the number of such programs;

"(2) to establish, strengthen, and support graduate centers for the study of the languages and cultures of foreign countries, areas, or regions;

"(3) to establish, strengthen, and support graduate centers to serve as national and international resources for research and training in international studies;

"(4) to establish, strengthen, and improve programs designed to prepare graduate and professional students for public service; and

"(5) to assist in strengthening undergraduate programs of instruction in the areas described in clauses (2), (3), and (4), whenever the Commissioner determines that strengthened undergraduate programs of instruction will contribute to the purposes of such clauses.

"(b) The Commissioner shall carry out a program of making grants to institutions of higher education to carry out the purposes set forth in subsection (a).

"(c) There are authorized to be appropriated $100,000,000 for the fiscal year ending June 30, 1973, and for each of the succeeding fiscal years ending prior to July 1, 1975, for the purposes of this part.

"APPLICATIONS FOR GRANTS

"SEC. 902. (a) The Commissioner is authorized to make grants to institutions of higher education in accordance with the provisions of this part. An institution of higher education desiring to receive a grant under this part shall submit to the Commissioner an application therefor at such time or times, in such manner, and containing such information as the Commissioner may prescribe by regulation. Such application shall set forth a program of activities for carrying out one or more of the purposes set forth in section 901(a) in such detail as will enable the Commissioner to determine the degree to which such program will accomplish such purpose or purposes, and such other policies, procedures, and assurances as the Commissioner may require by regulation.

"(b) The Commissioner shall approve an application only if he determines—

"(1) that the application sets forth a program of activities which are likely to make substantial progress toward achieving the purposes of this part; and

"(2) that the approval of the application will result in a wider distribution of the programs described in section 901(a) throughout the States.

"AUTHORIZED ACTIVITIES

"SEC. 903. (a) The funds appropriated pursuant to section 901(c) may be used for such purposes as the Commissioner determines will best accomplish the purposes of this part.

"(b) Such funds may be used solely for the purposes set forth in an application approved under section 902 and solely for the purpose of accomplishing the purposes stated in section 901(a), and to that end such funds may be used for—

"(1) faculty improvement;

"(2) the expansion of graduate and professional programs of study;

"(3) the acquisition of appropriate instructional equipment and materials;

"(4) cooperative arrangements among graduate and professional schools; and

"(5) the strengthening of graduate and professional school administration.

"RESEARCH AND STUDIES

"SEC. 904. The Commissioner is authorized, directly or by contract, to conduct studies and research activities in connection with the need for, and improvement of, graduate programs in various fields of study in institutions of higher education throughout the United States.

"PART B—FEDERAL FELLOWSHIPS

"PROGRAM AUTHORIZED

"SEC. 921. (a) It is the purpose of this part to provide grants, to be known as Federal fellowships, to assist graduate students of exceptional ability, who also demonstrate a financial need, and graduate and professional students of ability who are from economically disadvantaged backgrounds, to complete their study toward an advanced degree, to the end that the flow of highly trained individuals from universities may be speeded. The demonstration of financial need shall be determined in accordance with regulations prescribed by the Commissioner.

"(b) (1) The Commissioner is authorized to award under the provisions of this part not to exceed 13,200 fellowships for the fiscal year ending June 30, 1973, 19,200 fellowships for the fiscal year ending June 30, 1974, and 25,200 fellowships for the fiscal year ending June 30, 1975.

"(2) In addition to the number of fellowships authorized to be awarded by paragraph (1), the Commissioner is authorized to award fellowships equal to the number previously awarded during any fiscal year under this part but vacated prior to the end of the period for which they were awarded, except that each fellowship awarded under this paragraph shall be for such period of graduate or professional work or research, not in excess of the remainder of the period for which the fellowship which it replaces was awarded, as the Commissioner may determine.

"(c)(1) Fellowships awarded under this part shall be for graduate and professional study leading to an advanced degree or research incident to the presentation of a doctoral dissertation. Such fellowships may be awarded for graduate and professional study and research at any institution of higher education, library, archive, or any other research center approved for such purpose by the Commissioner. Such fellowships shall be awarded for such periods as the Commissioner may determine, but not to exceed three years.

"(2) Fellowships awarded under this part shall be, among others—

"(A) for persons who are (i) interested in teaching, planning to teach, or continuing to teach, in institutions of higher education, and (ii) pursuing, or intending to pursue, a course of study leading to a degree of doctor of philosophy, or an equivalent degree; or

"(B) for graduate or professional study for persons who plan to pursue environmental careers, in such fields as ecology, hydrology, chemistry, biology, and engineering related to the protection of the environment and the control of environmental pollution; or

"(C) for persons planning to pursue a career in the public service, which term 'public service' means service as an officer or employee in any branch of local, State, or Federal Government;

"(D) for persons undertaking advanced study or training in any modern foreign language and in fields needed for a full understanding of the area, region, or country in which such language is commonly used;

"(E) for persons from disadvantaged backgrounds, as determined by the Commissioner, undertaking graduate or professional study in fields to which their backgrounds are particularly relevant; or

"(F) for persons undertaking advanced study in domestic mining, and mineral and mineral fuel conservation, including oil, gas, coal, oil shale, and uranium.

"AWARD OF FELLOWSHIPS

"SEC. 922. Recipients of fellowships under this part shall be—

"(1) persons who have been accepted by an institution of higher education for graduate study leading to an advanced degree or for a professional degree, or

"(2) persons who have completed all course work required for granting of a doctoral degree or an equivalent degree (except such course work credited on the dissertation) and comprehensive examinations where appropriate, and whose doctoral dissertation (or other equivalent dissertation) proposal has been approved by appropriate officials of an institution of higher education.

"DISTRIBUTION OF FELLOWSHIPS

"SEC. 923. In awarding fellowships under the provisions of this part, the Commissioner shall endeavor to provide an equitable distribution of such fellowships throughout the Nation, except that, to the extent he deems proper, to provide for those who are in greatest financial need of such fellowships.

"STIPENDS AND INSTITUTION OF HIGHER EDUCATION ALLOWANCES

"SEC. 924. (a) The Commissioner shall pay to persons awarded fellowships under this part such stipends as he may determine to be consistent with prevailing practices under comparable federally supported programs, except that the stipend shall not be less than $2,800 for each academic year study. An additional amount of $300 for each such year

shall be paid to each such person on account of each of his dependents, not to exceed the amount of $1,500 per academic year.

"(b) In addition to the amount paid to persons pursuant to subsection (a) there shall be paid to the institution of higher education at which each such person is pursuing his course of study an amount equal to 150 per centum of the amount paid to such person, less the amount paid on account of each of such person's dependents, to such person, less any amount charged such person for tuition.

"(c) The Commissioner shall reimburse any person awarded a fellowship pursuant to this part for actual and necessary traveling expenses of such person and his dependents from his ordinary place of residence to the institution of higher education, library, archive, or other research center where he will pursue his studies under such fellowship, and to return to such residence.

"LIMITATION

"SEC. 925. No fellowship shall be awarded under this part for study at a school or department of divinity.

"FELLOWSHIP CONDITIONS

"SEC. 926. (a) A person awarded a fellowship under the provisions of this part shall continue to receive the payments provided in section 924(a) only during such periods as the Commissioner finds that he is maintaining satisfactory proficiency in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded, in an institution of higher education, and is not engaging in gainful employment other than part-time employment in teaching, research, or similar activities, approved by the Commissioner.

"(b) The Commissioner is authorized to require reports containing such information in such form and to be filed at such times as he determines necessary from any person awarded a fellowship under the provisions of this part. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, library, archive, or other research center approved by the Commissioner, stating that such person is making satisfactory progress in, and is devoting essentially full time to, the program for which the fellowship was awarded.

"APPROPRIATIONS AUTHORIZED

"SEC. 927. There are authorized to be appropriated such sums as may be necessary for the purposes of this part.".

(b) Of the sums appropriated pursuant to section 901(c) of the Higher Education Act of 1965 for any fiscal year at least $18,000,000 shall be for the purposes of sections 901 (a) (2) and (3) of such Act.

(c) The amendment made by subsection (a) shall be effective after June 30, 1972.

INTERNS FOR POLITICAL LEADERSHIP PROGRAM

SEC. 182A. (a) Title IX of the Higher Education Act of 1965 is amended by adding at the end thereof the following new part:

"PART C—INTERNS FOR POLITICAL LEADERSHIP

"PROGRAM AUTHORIZED

"SEC. 931. The Commissioner is authorized to plan, develop, and carry out an internship program under which students will be provided practical political involvement with elected officials in the performance of their duties at all levels of government through internships in their offices. Such internship program shall be carried out through arrangements with such nonprofit agencies as are appropriate, with institutions of higher education, and with State and local governments. Under such program the interns, who are students in their third and fourth years of study at any institution of higher education will be assigned duties in offices of State and local elected officials, which will give them an insight into the problems and operations of the different levels of government, as well as an opportunity for research and for involvement in the policymaking process. Such arrangements shall provide for coordination between the on-campus educational programs of the persons selected and their activities as interns, with commensurate credit given for their work and achievement as interns. Such internship program shall also provide opportunities for students who have participated in the internship program at State and local levels to become interns in the offices of Members of Congress, who wish to participate, for up to three months during the first year following the receipt of their bachelor's degree.

"SELECTION OF STUDENTS FOR PARTICIPATION

"SEC. 932. The students who are to participate in the internship program provided for in this part shall be selected from among students whose names are proposed by participating institutions of higher education. Internships shall be distributed among the States so that insofar as practicable the number for each State bears the same ratio to the total number as the number of Members of Congress from that State bears to the total number of Members of Congress.

"FEDERAL SHARE

"SEC. 933. The Federal share of the cost of carrying out the program provided for in this part may not exceed 50 per centum.

"ADMINISTRATION

"SEC. 934. The Commissioner shall prescribe the stipends to be paid to the interns participating in the program provided for in this part, and the duration and other terms and conditions of such internships. The cost of administration of a program may be paid by the Commissioner.

"APPROPRIATIONS AUTHORIZED

"SEC. 935. There is authorized to be appropriated to carry out this part the sum of $10,000,000 for the fiscal year 1972 and for each of the two succeeding fiscal years.

"DEFINITION

"SEC. 936. For the purpose of this part, the term 'State' as used in this part means the fifty States, Puerto Rico, and the District of Columbia. For purposes of this distribution of internships among the States, in determining the number of Members of Congress for purposes of section 932, the Resident Commissioner for Puerto Rico and the Delegate from the District of Columbia shall be considered Members of Congress, and interns in the offices of Members of Congress shall be attributed to the State of the Member in whose office they are serving."

(b) The amendment made by subsection (a) shall be effective after June 30, 1972.

IMPROVEMENT OF COMMUNITY COLLEGES

SEC. 183. (a) (1) Title X of the Higher Education Act of 1965 is amended to read as follows:

"TITLE X—IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES THROUGH COMMUNITY COLLEGES

"PART A—STATEWIDE PLANS FOR COMMMUNITY COLLEGES

"STATE PLANS

"SEC. 1001. (a) Each State Commission (established under section 1202) shall establish a committee, hereinafter in this section referred to as the committee, the membership of which shall include representatives of—

"(1) all State agencies having responsibility for, or an interest in postsecondary education;

"(2) the community colleges in the State and local agencies having responsibility for supervision or control of such colleges; and

"(3) the general public.

At least one-half of the members of the committee shall be persons with direct responsibility for the operation of a community college; one of which persons shall be designated by the Governor of the State as chairman of the committee.

"(b) (1) The committee shall develop and adopt a statewide plan for the expansion and improvement of postsecondary education programs in community colleges. Such plan shall—

"(A) designate areas of the State in which residents do not have access to at least two years of tuition-free or low-tuition postsecondary education within reasonable commuting distance;

"(B) designate areas of the State in which existing community colleges cannot meet the postsecondary educational needs of the residents;

"(C) set forth a comprehensive statewide plan for the establishment, expansion, and improvement of community colleges in order to achieve the goal of making available, within reasonable commuting distance, to all residents of the State an opportunity to attend a community college;

"(D) establish priorities for the use of financial and other resources in achieving the goal set forth in clause (C);

"(E) make recommendations with respect to adequate State and local financial support, within the priorities set forth pursuant to clause (D), for community colleges;

"(F) set forth a statement analyzing the duplications of postsecondary educational programs and make recommendations for coordination of such programs in order to eliminate such duplications;

"(G) set forth a plan for the use of existing, and new educational resources in the State in order to achieve the goal set forth in clause (C), including recommendations for the modification of State plans for federally assisted vocational education, community services, and academic facilities as they may affect community colleges.

"(2) Each plan developed and adopted pursuant to paragraph (1) shall be submitted, through the State Commission of the State for which it is developed, to the Commissioner for his approval. The Commissioner shall not approve a plan submitted pursuant to this paragraph unless he determines that (A) the plan has been developed on the basis of hearings conducted throughout the State in which all interested parties have been given an opportunity to present their views and (B) each State and local agency responsible for postsecondary education has had an opportunity to review, and make recommendations with respect to, the plan.

"(c) (1) There is hereby authorized to be appropriated $15,700,000 during the period beginning July 1, 1972, and ending July 1, 1974, to carry out the provisions of this section.

"(2) Sums appropriated pursuant to paragraph (1) shall be allotted by the Commissioner equally among the States, except that the amount allotted to Guam, American Samoa, and the Virgin Islands shall not exceed $100,000 each. Such sums shall remain available until expended.

"(d) The State plan for federally assisted vocational education, community services, or academic facilities of each State shall be modified by June 30, 1976, in accordance with the plan the Commissioner has approved from that State submitted pursuant to subsection (b).

"PART B—ESTABLISHMENT AND EXPANSION OF COMMUNITY COLLEGES

"PURPOSE

"SEC. 1011. It is the purpose of this title to encourage and assist the States and localities in establishing and expanding community colleges in communities throughout the States in order that every American will have an opportunity to attend a community college within reasonable commuting distance of his residence.

"PROGRAM AUTHORIZATION

"SEC. 1012. (a) The Commissioner shall carry out a program of making grants to community colleges in order to improve educational opportunities through community colleges as provided in this title.

"(b) For the purpose of carrying out this part, there are authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1973, $75,000,000 for the fiscal year ending June 30, 1974, and $150,000,000 for the fiscal year ending June 30, 1975.

"APPORTIONMENTS

"SEC. 1013. (a) From the sums appropriated pursuant to section 1012(b) for each fiscal year the Commissioner shall apportion not more than 5 per centum thereof among Puerto Rico, Guam, American Samoa, and the Virgin Islands according to their respective needs. From the remainder of such sums the Commissioner shall apportion to each State an amount which bears the same ratio to such remainder as the population aged eighteen and over in such State bears to the total of such population in all States. For the purpose of the second sentence of this subsection, the term 'State' does not include Puerto Rico, Guam, American Samoa, and the Virgin Islands.

"(b) The portion of any State's apportionment under subsection (a) for a fiscal year which the Commissioner determines will not be required, for the period such apportionment is available, for carrying out the purposes of this part shall be available for reapportionment from time to time, on such dates during such period as the Commissioner shall fix, to other States in proportion to the original apportionments to such States under subsection (a) for such year but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum which the Commissioner estimates such State needs and will be able to use for such period for carrying out such portion of its State application approved under this part, and the total of such reductions shall be similarly reapportioned among the States whose proportionate amounts are not so reduced. Any amount reapportioned to a State under this subsection during a year shall be deemed part of its apportionment under subsection (a) for such year.

"ESTABLISHMENT GRANTS

"SEC. 1014. (a) The Commissioner is authorized to make grants to new community colleges to assist them in planning, developing, establishing, and conducting initial operations of new community colleges in areas of the States in which there are no existing community colleges or in which existing community colleges cannot adequately provide postsecondary educational opportunities for all of the residents thereof who desire and can benefit from postsecondary education.

"(b) For the purposes of subsection (a), the term 'new community college' means a board of trustees or other governing board (or its equivalent) which is established by, or pursuant to, the law of a State, or local government, for the purpose of establishing a community college, as defined in section 1019 or any existing board so established which has the authority to create, and is in the process of establishing, a new community college.

"EXPANSION GRANTS

"SEC. 1015. The Commissioner is authorized to make grants to existing community colleges to assist them—

"(1) in expanding their enrollment capacities,

"(2) in establishing new campuses, and

"(3) in altering or modifying their educational programs,

in order that they may (A) more adequately meet the needs, interests, and potential benefits of the communities they serve, or (B) provide educational programs especially suited to the needs of educationally disadvantaged persons residing in such communities.

"APPLICATIONS; FEDERAL SHARE

"SEC. 1016. (a) (1) Grants under sections 1014 and 1015 may be made only upon application to the Commissioner. Applications for assistance under such sections shall be submitted at such time, in such manner and form, and containing such information as the Commissioner shall require by regulation.

"(2) No application submitted pursuant to paragraph (1) shall be approved unless the Commissioner determines that it is consistent with the plan approved by him from the State in which the applicant is located under section 1001.

"(b) (1) No application for assistance under section 1014 or 1015 shall be approved for a period of assistance in excess of four years.

"(2) The Federal share of carrying out the project for which assistance is sought in an application submitted pursuant to this section shall not exceed—

"(A) 40 per centum of such cost for the first year of assistance;

"(B) 30 per centum thereof for the second year of assistance;

"(C) 20 per centum thereof for the third year of assistance; and

"(D) 10 per centum thereof for the fourth year of assistance.

"(c) (1) Funds appropriated pursuant to section 1012 and granted under section 1014 or 1015 shall, subject to paragraph (2), be available for those activities the Commissioner determines to be necessary to carry out the purposes of such sections.

"(2) Such funds may be used (A) to remodel or renovate existing facilities, or (B) to equip new and existing facilities, but such funds may not be used for the construction of new facilities or the acquisition of existing facilities.

"LEASE OF FACILITIES

"SEC. 1017. (a) The Commissioner is authorized to make grants to community colleges to enable them to lease facilities, for a period of not to exceed five years, in connection with activities carried out by them under section 1014 or section 1015.

"(b) The Federal share of carrying out a project through a grant under this section shall not exceed—

"(1) 90 per centum of the cost of such project for the first year of assistance under this section;

"(2) 70 per centum thereof for the second such year;

"(3) 50 per centum thereof for the third such year;

"(4) 30 per centum thereof for the fourth such year; and

"(5) 20 per centum thereof for the fifth such year.

"PAYMENTS

"SEC. 1018. From the amount apportioned to each State pursuant to section 1013, the Commissioner shall pay to each applicant from that State which has had an application for assistance approved under this part the Federal share of the amount expended under such application.

"DEFINITION

"SEC. 1019. As used in this title, the term 'community college' means any junior college, technical institute, or any other educational institution (which may include a four-year institution of higher education or a branch thereof) in any State which—

"(1) is legally authorized within such State to provide a program of education beyond secondary education;

"(2) admits as regular students high school graduates or equivalent, or persons at least eighteen years of age;

"(3) provides a two-year postsecondary educational program leading to an associate degree, or acceptable for credit toward a bachelor's degree, and also provides programs of postsecondary vocational, technical, occupational, and specialized education;

"(4) is a public or other nonprofit institution;

"(5) is accredited as an institution by a nationally recognized accrediting agency or association, or if not so accredited—

"(A) is an institution that has obtained recognized preaccreditation status from a nationally recognized accrediting body, or

"(B) is an institution whose credits are accepted on transfer, by not less than three accredited institutions, for credit on the same basis as if transferred from an institution so accredited.

"COMMUNITY COLLEGE UNIT

"SEC. 1020. (a) There is established, in the Office of Education, a Community College unit (hereinafter in this section referred to as the 'Unit') which shall have the responsibility for coordinating all programs administered by the Commissioner which affect, or can benefit, community colleges, including those authorized by this Act, and the Vocational Education Act of 1963.

"(b) The Unit shall be headed by a Director who shall be placed in grade 17 of the General Schedule set forth in section 5332 of title 5, United States Code."

(2) The position created by section 1020 of the Higher Education Act of 1965 shall be in addition to the number of positions placed in that grade under section 5108 of title 5, United States Code.

(b) The amendment made by subsection (a) shall be effective after June 30, 1972.

EXTENSION OF TITLES IV AND VI OF THE NATIONAL DEFENSE EDUCATION ACT OF 1958 AND OF THE INTERNATIONAL EDUCATION ACT OF 1966

SEC. 184. (a) (1) Section 402(a) of the National Defense Education Act of 1958 is amended by striking out "seven succeeding fiscal years" and inserting in lieu thereof "eight succeeding fiscal years".

(2) (A) The first sentence of section 601 of such Act is amended by striking out "during the period beginning July 1, 1958, and ending with the close of June 30, 1971,".

(B) Section 603 of such Act is amended by striking out "for the fiscal year ending June 30, 1971," and inserting in lieu thereof "for each of the fiscal years ending June 30, 1971, and June 30, 1972,".

(b) The second sentence of section 105(a) of the International Education Act of 1966 is amended by striking out "July 1, 1971" and inserting in lieu thereof "July 1, 1972".

The amendments made by subsections (b) and (c) shall be effective after June 30, 1971.

PART J—LAW SCHOOL CLINICAL EXPERIENCE PROGRAMS

AMENDMENTS TO TITLE XI OF THE HIGHER EDUCATION ACT OF 1965

SEC. 191. (a) Title XI of the Higher Education Act of 1965 is amended by inserting "grant or" before "contract", and "grants or" before "contracts" wherever they appear.

(b) (1) Section 1101(a) of such Act is amended by striking out "The" where it appears at the beginning of such section, and inserting in lieu thereof the following: "In order to provide law students with experience, based on effective experimental programs, in dealing directly with the problems of the disadvantaged and other individuals and groups in society adversely affected by circumstances beyond their capacity to control, the".

(2) Such section 1101(a) is amended by inserting "for students" before "clinical", and striking out "to students in the practice of law, with preference being given to programs providing such experience, to the extent practicable, in", and inserting in lieu thereof "in providing legal services and advice, including".

(c) Clause (5) of section 1101(b) of such Act is amended to read as follows:

"(5) equipment and library resources; and".

(d) Section 1101(d) of such Act is amended by striking out all that follows "association", and inserting in lieu thereof "listed by the Commissioner as a nationally recognized accrediting agency."

(e) Section 1103 of such Act is amended by striking out "$340,000 for the fiscal year ending June 30, 1969", and by striking out "fiscal years ending June 30, 1970, and June 30, 1971", and inserting in lieu thereof "succeeding fiscal years ending prior to July 1, 1975". Such section is further amended by striking out the second sentence.

(f) The amendments made by this section shall be effective after June 30, 1971.

TITLE II—VOCATIONAL EDUCATION

SPECIAL PROGRAMS FOR THE DISADVANTAGED

SEC. 201. Section 102(b) of the Vocational Education Act of 1963 is amended by inserting after "1972," the following: "and for the succeeding fiscal years ending prior to July 1, 1975,".

BUREAU OF OCCUPATIONAL AND ADULT EDUCATION

SEC. 202. (a)(1) The Vocational Education Act of 1963 is amended by inserting after section 104 the following new section:

"FEDERAL ADMINISTRATION

"SEC. 105. (a) There is established within the Office of Education a Bureau of Occupational and Adult Education, hereinafter in this section referred to as the 'Bureau', which shall be responsible for carrying out those responsibilities of the Commissioner which he is authorized to delegate under this Act, the Adult Education Act, and any other Act vesting authority in the Commissioner for vocational, occupational, or career education (including manpower training) or for adult or continuing education.

"(b)(1) The Bureau shall be headed by an Associate Commissioner, who shall be appointed by the Commissioner and who shall be compensated at the rate specified for grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code.

"(2) Additional positions are created for, and shall be assigned to, the Bureau as follows:

"(A) Three positions to be placed in grade 17 of such General Schedule, one of which shall be filled by a person with broad experience in the field of junior and community college education.

"(B) Seven positions to be placed in grade 16 of such General Schedule, at least two of which shall be filled by persons with broad experience in the field of postsecondary-occupational education in community and junior colleges, at least one of which shall be filled by a person with broad experience in education in private proprietary institutions, and at least one of which shall be filled by a person with professional experience in occupational guidance and counseling.

"(c) The Commissioner is authorized to delegate any of his functions under this Act or under the Adult Education Act, except the approval of State plans under section 123 of this Act and section 306 of the Adult Education Act, to the Associate Commissioner.".

(2) The positions created by section 105(b) of the Vocational Education Act of 1963, as amended by paragraph (1), shall be in addition to the number of positions placed in the appropriate grades under section 5108 of title 5, United States Code.

(b) The amendment made by subsection (a) shall be effective July 1, 1972.

CLARIFICATION OF DEFINITION OF VOCATIONAL EDUCATION WITH RESPECT TO INDIVIDUAL ARTS PROGRAMS; INCLUSION OF VOLUNTEER FIREMEN

SEC. 203. (a) Section 108(1) of the Vocational Education Act of 1963 is amended by inserting at the end thereof the following new sentence: "Such term includes industrial arts education programs in cases where the Commissioner determines by regulation that such programs will accomplish or facilitate one or more of the purposes of the first sentence of this paragraph.".

(b) Such section 108(1) is further amended by inserting immediately after the word "employment" the first time it appears in such section the following: " (including volunteer firemen)".

EXEMPLARY PROGRAMS AND PROJECTS

SEC. 204. Section 142(a) of the Vocational Education Act of 1963 is amended by striking out "two" and inserting in lieu thereof "five".

RESIDENTIAL VOCATIONAL SCHOOLS

SEC. 205. (a) Section 151(b) of the Vocational Education Act of 1963 is amended by striking out "the succeeding fiscal year" and inserting in lieu thereof "each of the succeeding fiscal years ending prior to July 1, 1975".

(b) Section 152(a)(1) of such Act is amended by striking out "July 1, 1972" and inserting in lieu thereof "July 1, 1975".

(c) Section 153(d)(2) of such Act is amended by striking out "July 1, 1971" and inserting in lieu thereof "July 1 of each of the four succeeding fiscal years".

CONSUMER AND HOMEMAKING EDUCATION

SEC. 206. (a) Section 161(a)(1) of the Vocational Education Act of 1963 is amended by striking out "the fiscal year ending June 30, 1972" and inserting in lieu thereof "each of the succeeding fiscal years ending prior to July 1, 1975".

(b) Section 161(c) of such Act is amended by striking out "and the two succeeding" and inserting in lieu thereof "and the five succeeding".

COOPERATIVE VOCATIONAL EDUCATION

SEC. 207. Section 172(a) of the Vocational Education Act of 1963 is amended by striking out "the fiscal year ending June 30, 1972" and inserting in lieu thereof "each of the succeeding fiscal years ending prior to July 1, 1975".

WORK-STUDY PROGRAMS

SEC. 208. Section 181(a) of the Vocational Education Act of 1963 is amended by inserting after "June 30, 1972," the following: "and for each of the succeeding fiscal years ending prior to July 1, 1975,".

CURRICULUM DEVELOPMENT

SEC. 209. Section 191(b) of the Vocational Education Act of 1963 is amended by striking out "July 1, 1972" and inserting in lieu thereof "July 1, 1975".

NATIONAL ADVISORY COUNCIL

SEC. 210. Section 104(a)(4) of the Vocational Education Act of 1968 is amended by striking out "two" and inserting in lieu thereof "five".

TITLE III—ESTABLISHMENT OF A NATIONAL FOUNDATION FOR POSTSECONDARY EDUCATION AND A NATIONAL INSTITUTE OF EDUCATION

AMENDMENT TO THE GENERAL EDUCATION PROVISIONS ACT

SEC. 301. (a) The General Education Provisions Act (title IV of Public Law 90-247) is amended—

(1) by redesignating parts A, B, and C thereof, and all references thereto, as parts B, C, and D and redesignating sections 401, 402, 403, 404, 405, 406, 411, 412, 413, 414, 415, 416, 417, 421, 422, 423, 424, 425, 426, 431, 432, 433, 434, 435, 436, 437, 438, and all references thereto, as sections 400, 411, 412, 413, 414, 415, 421, 422, 423, 424, 425, 426, 427, 431, 432, 433, 434, 435, 436, 441 442, 443, 444, 445, 446, 447, and 448, respectively; and

(2) by inserting after section 400 (as so redesignated by clause (1)) the following new part:

"PART A—EDUCATION DIVISION OF THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

"THE EDUCATION DIVISION

"SEC. 401. There shall be, within the Department of Health, Education, and Welfare, an Education Division which shall be composed of the Office of Education, the National Foundation for Postsecondary Education, and the National Institute of Education, and shall be headed by the Commissioner of Education.

"THE OFFICE OF EDUCATION

"SEC. 402. (a) The purpose and duties of the Office of Education shall be to collect statistics and facts showing the condition and progress of education in the United States, and to disseminate such information respecting the organization and management of schools and school systems and methods of teaching, as shall aid the people of the United States in the establishment and maintenance of efficient school systems, and otherwise promote the cause of education throughout the country. Nothing in this section, or any other provision of law, shall be construed to grant the Office of Education any authority which is expressly provided for by statute or implied therein.

"(b)(1) The management of the Office of Education shall, subject to the direction and supervision of the Secretary, be entrusted to a Commissioner of Education, who shall be appointed by the President by and with the advice and consent of the Senate, and who shall serve at the pleasure of the President.

"(2) There shall be a Deputy Commissioner of Education (referred to in this section as 'Deputy Commissioner') who shall be appointed by the President, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President, and who shall perform such duties as the Commissioner may prescribe by regulation. The Deputy Commissioner shall serve as Commissioner during the absence or disability of the Commissioner or in the event of a vacancy in the Office of the Commissioner.

"(3) Persons holding the offices created by paragraphs (1) and (2) shall be compensated at the following rates specified for the Executive Schedule in subchapter II of title 5, United States Code:

"(A) The Commissioner shall be compensated at the rate provided for level IV under section 5315 thereof.

"(B) The Deputy Commissioner shall be compensated at the rate provided for level V under section 5316 thereof.

"(4) The Commissioner and the Deputy Commissioner may not engage in any other business, vocation, or employment while serving in any such position; nor may either of them, except with the express approval of the President in writing, hold any office in, or act in any capacity for, or have a financial interest in, any organization, agency, or institution to which the Office of Education makes a grant or with which it makes a contract or other financial arrangement.

"(5) There are hereby created six additional positions within the Office of Education which shall be placed in grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code; and such positions shall be in addition to the number of positions placed in that grade under section 5108 of such title.

"NATIONAL FOUNDATION FOR POSTSECONDARY EDUCATION

"SEC. 403. (a)(1) The National Foundation for Postsecondary Education (referred to in this section as the 'Foundation'), shall consist of a Postsecondary Education Board (referred to in this section as the 'Board') and a Director. The Foundation shall have only such authority as may be vested therein by this section or delegated thereto by the Commissioner and shall be subject to the general

regulations of the Commissioner promulgated for its management.

"(2) It shall be the purpose of the Foundation—

"(A) to encourage excellence, innovation, and reform in postsecondary education;

"(B) to provide assistance for the design and establishment of innovative structures for providing postsecondary education and innovative modes of teaching and learning therein;

"(C) to expand the ways and pattern of acquiring postsecondary education and to open opportunities for such education to individuals of all ages and circumstances;

"(D) to strengthen the autonomy, individuality, and sense of mission of postsecondary educational institutions, and to support programs which are distinctive or of special value to American society; and

"(E) to encourage postsecondary educational institutions to develop policies, programs, and practices responsive to social needs, and to provide an organization concerned with the rationalization of public policies toward postsecondary education.

"(b)(1) The Board shall consist of fifteen members, at least one of whom shall be a student at the time of his appointment, appointed by the President, by and with the advice and consent of the Senate, the Director, and such other ex officio members who are officers of the United States as the President may designate. Eight members (excluding ex officio members) shall constitute a quorum. The Chairman of the Board shall be designated by the President from among its appointed members. Ex officio members shall not have a vote on the Board.

"(2) The term of office of members of the Board (other than ex officio members) shall be six years, except that (A) any member appointed to fill a vacancy shall serve only such portion of a term as shall not have been expired at the time of such appointment, and (B) in the case of initial members, five shall serve for terms of four years and five for terms of two years. Any person, whose term of office is subject to this paragraph, who has been a member of the Board for six consecutive years shall thereafter be ineligible for appointment to the Board during the two-year period following the expiration of such sixth year.

"(3) Subject to general regulations of the Commissioner promulgated for the management of the Foundation, the Board shall—

"(A) establish general policies for, and review the conduct of, the Foundation;

"(B) meet at the call of the Chairman of the Board, except that it shall meet (i) at least four times during each fiscal year, or (ii) whenever one-third of the members request a meeting in writing, in which event one-third of the members (excluding ex officio members) shall constitute a quorum;

"(C) submit an annual report to the President on the activities of the Foundation and the status of postsecondary education in the United States, which (i) shall include such recommendations and comments as the Board may deem appropriate, and (ii) shall be submitted to the Congress not later than March 31 of each year;

"(D) make and submit to the President and the Congress such other reports as it may deem necessary.

The Board shall have the responsibility for the general policies with respect to the powers, duties, and authorities vested in the Foundation under this section. The Director shall make available to the Board such information and assistance as may be necessary to enable the Board to carry out its functions.

"(c)(1) The Director of the Foundation (referred to in this section as the 'Director') shall be appointed by the President, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President. The Director shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code, and shall perform such duties and exercise such powers as the Board, subject to general regulations of the Commissioner, may prescribe.

"(2) There shall be a Deputy Director of the Foundation (referred to in this section as the 'Deputy Director') who shall be appointed by the President and shall serve at the pleasure of the President. The Deputy Director shall be compensated at the rate provided for grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code. The Deputy Director shall exercise such powers as the Director may prescribe and Deputy Director shall serve as Director during the absence or disability of the Director or in the event of a vacancy i the Office of Director. The position created by this paragraph shall be in addition to the number of positions placed in grade 18 of the General Schedule under section 5108 of title 5, United States Code.

"(3) There are hereby created three additional positions within the Foundation which shall be placed in grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code; and such positions shall be in addition to the number of positions placed in that grade under section 5108 of such title.

"(d) The Foundation is authorized to make grants to, and contracts with, institutions of higher education (including combinations of such institutions) and other public and private educational institutions and agencies (except that no grant shall be made to an educational institution or agency other than a nonprofit institution or agency) to improve postsecondary educational opportunities by providing assistance for—

"(1) encouraging the reform, innovation, and improvement of postsecondary education, and providing equal educational opportunity for all;

"(2) the creation of institutions and programs involving new paths to career and professional training, and new combinations of academic and experimental learning;

"(3) the establishment of institutions and programs based on the technology of communications;

"(4) the carrying out in postsecondary educational institutions of changes in internal structure and operations designed to clarify institutional priorities and purposes;

"(5) the design and introduction of cost-effective methods of instruction and operation;

"(6) the introduction of institutional reforms designed to expand individual opportunities for entering and reentering institutions and pursuing programs of study tailored to individual needs;

"(7) the introduction of reforms in graduate education, in the structure of academic professions, and in the recruitment and retention of faculties; and

"(8) the creation of new institutions and programs for examining and awarding credentials to individuals, and the introduction of reforms in current institutional practices related thereto;

"(e) In carrying out this section, the Director shall have the authority—

"(1) to enter into contracts without performance or other bonds, and without regard to section 3709 of the Revised Statutes (41 U.S.C. 5);

"(2) to make advance, progress, and other payments without regard to the provisions of section 3648 of the Revised Statutes (31 U.S.C. 529);

"(3) to receive money and other property donated, bequeathed, or devised to the Foundation with or without a condition or restriction, including a condition that the Foundation use other funds for the purposes of the gift; and to use, sell, or otherwise dispose of such property for the purposes of this section;

"(4) to publish or arrange for the publication of information without regard to the provisions of section 501 of title 44, United States Code;

"(5) to accept and utilize the services of voluntary and uncompensated personnel, notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)), and to provide transportation and subsistence as authorized by section 5703 of title 5, United States Code, for persons serving without compensation;

"(6) to arrange with and reimburse the heads of other Federal agencies for the performance of any activity which the Foundation is authorized to conduct; and

"(7) to appoint, for terms not to exceed three years, and compensate without regard to the civil service or classification laws such technical or professional employees of the Foundation as he deems necessary to accomplish its functions, and also appoint and compensate without regard to such laws not to exceed one-fifth of the number of full-time, regular technical or professional employees of the Foundation.

"(f) There is authorized to be appropriated, without fiscal year limitations, $250,000,000, in the aggregate, for the period beginnnig July 1, 1972, and ending June 30, 1975, to carry out the functions of the Foundation, Sums so appropriated shall, notwithstanding any other provision of law, unless enacted in express limitation of this subsection, remain available for the purposes of this section until expended.

"NATIONAL INSTITUTE OF EDUCATION

"SEC. 404. (a)(1) The National Institute of Education (hereinafter referred to as the 'Institute') shall consist of a National Council on Educational Research (hereinafter referred to as the 'Council') and a Director of the Institute (hereinafter referred to as the 'Director'). The Institute shall have only such authority as may be vested therein by this section and shall be subject to general regulations of the Commissioner promulgated for its management.

"(2) The Institute shall, in accordance with the provisions of this section, seek to improve education, including career education, in the United States through—

"(A) helping to solve or to alleviate the problems of, and achieve the objectives of American education;

"(B) advancing the practice of education, as an art, science, and profession;

"(C) the strengthening of the scientific and technological foundations of education; and

"(D) building an effective educational research and development system.

"(b)(1) The Council shall consist of fifteen members appointed by the President, by and with the advice and consent of the Senate, the Director, and such other ex officio members who are officers of the United States as the President may designate. Eight members of the Council (excluding ex officio members) shall constitute a quorum. The Chairman of the Council shall be designated from among its appointed members by the President. Ex officio members shall not have a vote on the Council.

"(2) The term of office of the members of the Council (other than ex officio members) shall be three years, except that (A) any member appointed to fill a vacancy shall serve only such portion of a term as shall not have been expired at the time of such appointment, and (B) in the case of initial members, five shall serve terms of two years and five shall serve terms of one year. Any appointed member who has been a member of the Council for six consecutive years shall thereafter be ineligible for appointment to the Council during the two-year period following the expiration of such sixth year.

(3) Subject to general regulations of the Commissioner promulgated for the management of the Institute, the Council shall—

"(A) establish general policies for, and review the conduct of, the Institute;

"(B) review, and advise the Commissioner on the status of educational research in the United States;

"(C) meet at the call of the Chairman, except that it shall meet (i) at least six times during each fiscal year, or (ii) whenever one-third of the members request a meeting in writing, in which event one-third of the members (excluding ex officio members) shall constitute a quorum;

"(D) submit an annual report to the President on the activities of the Institute, and on educational research in general, which (i) shall include such recommendations and comments as the Council may deem appropriate, and (ii) shall be submitted to the Congress not later than March 31 of each year; and

"(E) make and submit to the President and the Congress such other reports as it may deem necessary.

The Council shall have the responsibility for the general policies with respect to the powers, duties, and authorities vested in the Institute under this section. The Director shall make available to the Council such information and assistance as may be necessary to enable the Council to carry out its functions.

"(c) (1) The Director of the Institute shall be appointed by the President, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President. The Director shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code, and shall perform such duties and exercise such powers and authorities as th Council, subject to general regulations of the Commissioner, may prescribe.

"(2) There shall be a Deputy Director of the Institute (referred to in this section as the 'Deputy Director') who shall be appointed by the President and shall serve at the pleasure of the President. The Deputy Director shall be compensated at the rate provided for grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code, and shall act for the Director during the absence or disability of the Director and exercise such powers and authorities as the Director may prescribe. The position created by this paragraph shall be in addition to the number of positions placed in grade 18 of the General Schedule under section 5108 of title 5, United States Code.

"(3) There are hereby created three additional positions within the Institute which shall be placed in grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code; and such positions shall be in addition to the number of positions placed in that grade under section 5108 of such title.

"(d) (1) In order to carry out the objectives of the Institute, the Commissioner is authorized, through the Institute, to conduct educational research; collect and disseminate the findings of educational research; assist and foster such research, collection, dissemination, or training through grants, or technical assistance to, or jointly financed cooperative arrangements with, public or private organizations, institutions, agencies, or individuals; promote the coordination of such research and research support within the Federal Government; and may construct or provide (by grant or otherwise) for such facilities as he determines may be required to accomplish such purposes. As used in this subsection, the term 'educational research' includes research, planning, surveys, evaluations, investigations, experiments, developments, and demonstrations in the field of education (including career education).

"(2) The Commissioner may appoint, for terms not to exceed three years, and compensate without regard to the civil service or classification laws, such technical or professional employees of the Institute as he deems necessary to accomplish its functions and also appoint and compensate without regard to such laws not to exceed one-fifth of the number of full-time, regular technical or professional employees of the Institute.

"(e) There are hereby authorized to be appropriated, without fiscal year limitations, $550,000,000, in the aggregate, for the period beginning July 1, 1972, and ending June 30, 1975, to carry out the functions of the Institute. Sums so appropriated shall, notwithstanding any other provision of law unless enacted in express limitation of this subsection, remain available for the purposes of this subsection until expended.".

(b) (1) The amendments made by subsection (a) shall be effective after June 30, 1972.

(2) (A) Effective July 1, 1972, sections 516 and 517 of the Revised Statutes of the United States (20 U.S.C. 1, 2) are repealed.

(B) Effective July 1, 1972, section 422 of the General Education Provisions Act is amended by striking out "(as set forth in section 516 of the Revised Statutes (20 U.S.C. 1))" and inserting in lieu thereof "(as set forth in section 402(a) of this Act)".

(3) (A) Effective July 1, 1972, the functions of the Secretary of Health, Education, and Welfare administered through the Office of Education and the functions of the Commissioner of Education are transferred to the Commissioner of Education established pursuant to section 402 of the General Education Provisions Act.

(B) All orders, determinations, rules, regulations, procedures, or other decisions of the Commissioner of Education which are in effect on June 30, 1972, shall continue to be in effect and shall be deemed to be orders, determinations, rules regulations, procedures, or other decisions of the Commissioner of Education established under section 402 of such Act until changed or modified in accordance with law. No suit, action, or other proceeding lawfully commenced by or against any office or officer of the United States acting in his official capacity shall abate by reason of any transfer made pursuant to this section, but the court, on motion or supplemental petition filed at any time within twelve months after such transfer takes effect, showing a necessity for a survival of such suit, action, or other proceeding to obtain a settlement of the questions involved, may allow the same to be maintained by or against the appropriate office or officer of the United States.

(C) All personnel, assets, liabilities, contracts, property, and records as are determined by the Commissioner to be necessary for the transitions required under this section, are, effective July 1, 1972, transferred to the Commissioner of Education established pursuant to section 402 of such Act.

(4) Effective July 1, 1972, the Cooperative Research Act is amended by striking out sections 2 and 3.

(5) Effective July 1, 1972, section 421 of the General Education Provisions Act (as redesignated by section 301(a) (1) of this Act) is amended by adding the following new subsection at the end thereof:

"(d) (1) The Commissioner is authorized to make grants to, or contracts with, any public or nonprofit private agency, institution, or organization or contracts with any private agency, institution, or organization for the dissemination of information, for surveys, for exemplary projects in the field of education and for the conduct of studies related to the management of the Office of Education.

"(2) There are authorized to be appropriated for the fiscal year ending June 30, 1973, and for each of the succeeding fiscal years ending prior to July 1, 1975, $25,000,000 for the purposes of this subsection.".

TITLE IV—INDIAN EDUCATION

SHORT TITLE

SEC. 401. This title may be cited as the "Indian Education Act of 1971".

PART A—REVISION OF IMPACTED AREAS PROGRAM AS IT RELATES TO INDIAN CHILDREN

AMENDMENTS TO PUBLIC LAW 874, EIGHTY-FIRST CONGRESS

SEC. 411. (a) The Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by redesignating title III as title IV, by redesignating sections 301 through 303 and references thereto as sections 401 through 403, respectively, and by adding after title II the following new title:

"TITLE III—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR THE EDUCATION OF INDIAN CHILDREN

"SHORT TITLE

"SEC. 301. This title may be cited as the 'Indian Elementary and Secondary School Assistance Act'.

"DECLARATION OF POLICY

"SEC. 302. (a) In recognition of the special educational needs of Indian students in the United States, Congress hereby declares it to be the policy of the United States to provide financial assistance to local educational agencies to develop and carry out elementary and secondary school programs specially designed to meet these special educational needs.

"(b) The Commissioner shall, in order to effectuate the policy set forth in subsection (a), carry out a program of making grants to local educational agencies which are entitled to payments under this title and which have submitted, and had approved, applications therefor, in accordance with the provisions of this title.

"GRANTS TO LOCAL EDUCATIONAL AGENCIES

"SEC. 303. (a) (1) For the purpose of computing the amount to which a local educational agency is entitled under this title for any fiscal year ending prior to July 1, 1975, the Commissioner shall determine the number of Indian children who were enrolled in the schools of a local educational agency, and for whom such agency provided free public education, during such fiscal year.

"(2) (A) The amount of the grant to which a local educational agency is entitled under this title for any fiscal year shall be an amount equal to (i) the average per pupil expenditure for such agency (as determined under subparagraph (C)) multiplied by (ii) the sum of the number of children determined under paragraph (1).

"(B) A local educational agency shall not be entitled to receive a grant under this title for any fiscal year unless the number of children under subsection (a), with respect to such agency, is at least ten or constitutes at least 50 per centum of its total enrollment: *Provided*, That the requirements of this subparagraph shall not apply to any such agencies serving Indian children in Alaska, California, and Oklahoma or located on, or in proximity to, an Indian reservation.

"(C) For the purposes of this subsection, the average per pupil expenditure for a local educational agency shall be the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made, of all of the local educational agencies in the State in which such agency is located, plus any direct current expenditures by such State for the operation of such agencies (without regard to the sources of funds from which either of such expenditures are made), divided by the aggregate number of children who were in average daily enrollment for whom such agencies provided free public education during such preceding fiscal year.

"(b) In addition to the sums appropriated for any fiscal year for grants to local edu-

cational agencies under this title, there is hereby authorized to be appropriated for any fiscal year an amount not in excess of 5 per centum of the amount appropriated for payments on the basis of entitlements computed under subsection (a) for that fiscal year, for the purpose of enabling the Commissioner to provide financial assistance to schools on or near reservations which are not local educational agencies or have not been local educational agencies for more than three years, in accordance with the appropriate provisions of this title.

"USES OF FEDERAL FUNDS

"SEC. 304. Grants under this title may be used, in accordance with applications approved under section 305, for—

"(1) planning for and taking other steps leading to the development of programs specifically designed to meet the special educational needs of Indian children, including pilot projects designed to test the effectiveness of plans so developed; and

"(2) the establishment, maintenance, and operation of programs, including, in accordance with special regulations of the Commissioner, minor remodeling of classroom or other space used for such programs and acquisition of necessary equipment, specially designed to meet the special educational needs of Indian children.

"APPLICATIONS FOR GRANTS; CONDITIONS FOR APPROVAL

"SEC. 305. (a) A grant under this title, except as provided in section 303(b), may be made only to a local educational agency or agencies, and only upon application to the Commissioner at such time or times, in such manner, and containing or accompanied by such information as the Commissioner deems necessary. Such application shall—

"(1) provide that the activities and services for which assistance under this title is sought will be administered by or under the supervision of the applicant;

"(2) set forth a program for carrying out the purposes of section 304, and provide for such methods of administration as are necessary for the proper and efficient operation of the program;

"(3) in the case of an application for payments for planning, provide that (A) the planning was or will be directly related to programs or projects to be carried out under this title and has resulted, or is reasonably likely to result, in a program or project which will be carried out under this title, and (B) the planning funds are needed because of the innovative nature of the program or project or because the local educational agency lacks the resources necessary to plan adequately for programs and projects to be carried out under this title;

"(4) provide that effective procedures, including provisions for appropriate objective measurement of educational achievement, will be adopted for evaluating at least annually the effectiveness of the programs and projects in meeting the special educational needs of Indian students;

"(5) set forth policies and procedures which assure that Federal funds made available under this title for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the education of Indian children and in no case supplant such funds;

"(6) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the applicant under this title; and

"(7) provide for making an annual report and such other reports, in such form and containing such information, as the Commissioner may reasonably require to carry out his functions under this title and to determine the extent to which funds provided under this title have been effective in improving the educational opportunities of Indian students in the area served, and for keeping such record and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

"(b) An application by a local educational agency or agencies for a grant under this title may be approved only if it is consistent with the applicable provisions of this title and—

"(1) meets the requirements set forth in subsection (a);

"(2) provides that the program or project for which application is made—

"(A) will utilize the best available talents and resources (including persons from the Indian community) and will substantially increase the educational opportunities of Indian children in the area to be served by the applicant; and

"(B) has been developed—

"(i) in open consultation with parents of Indian children, teachers, and, where applicable, secondary school students, including public hearings at which such persons have had a full opportunity to understand the program for which assistance is being sought and to offer recommendations thereon, and

"(ii) with the participation and approval of a committee composed of, and selected by, parents of children participating in the program for which assistance is sought, teachers, and, where applicable, secondary school students of which at least half the members shall be such parents;

"(C) sets forth such policies and procedures as will insure that the program for which assistance is sought will be operated and evaluated in consultation with, and the involvement of, parents of the children and representatives of the area to be served, including the committee established for the purposes of clause (2)(B)(ii).

"(c) Amendments of applications shall, except as the Commissioner may otherwise provide by or pursuant to regulations, be subject to approval in the same manner as original applications.

"PAYMENTS

"SEC. 306. (a) The Commissioner shall, subject to the provisions of section 307, from time to time pay to each local educational agency which has had an application approved under section 305, an amount equal to the amount expended by such agency in carrying out activities under such application.

"(b)(1) No payments shall be made under this title for any fiscal year to any local educational agency in a State which has taken into consideration payments under this title in determining the eligibility of such local educational agency in that State for State aid, or the amount of that aid, with respect to the free public education of children during that year or the preceding fiscal year.

"(2) No payments shall be made under this title to any local educational agency for any fiscal year unless the State educational agency finds that the combined fiscal effort (as determined in accordance with regulations of the Commissioner) of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than such combined fiscal effort for that purpose for the second preceding fiscal year.

"ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS

"SEC. 307. (a) If the sums appropriated for any fiscal year for making payments under this title are not sufficient to pay in full the total amounts which all local educational agencies are eligible to receive under this title for that fiscal year, the maximum amounts which all such agencies are eligible to receive under this title for such fiscal year shall be ratably reduced. In case additional funds become available for making such payments for any fiscal year during which the first sentence of this subsection is applicable, such reduced amounts shall be increased on the same basis as they were reduced.

"(b) In the case of any fiscal year in which the maximum amounts for which local educational agencies are eligible have been reduced under the first sentence of subsection (a), and in which additional funds have not been made available to pay in full the total of such maximum amounts under the second sentence of such subsection, the Commissioner shall fix dates prior to which each local educational agency shall report to him on the amount of funds available to it, under the terms of section 306(a) and subsection (a) of this section, which it estimates, in accordance with regulations of the Commissioner, that it will expand under approved applications. The amounts so available to any local educational agency, or any amount which would be available to any other local education agency if it were to submit an approvable application therefor, which the Commissioner determines will not be used for the period of its availability, shall be available for allocation to those local educational agencies, in the manner provided in the second sentence of subsection (a), which the Commissioner determines will need additional funds to carry out approved applications, except that no local educational agency shall receive an amount under this sentence which, when added to the amount available to it under subsection (a), exceeds its entitlement under section 303.".

(b)(1) The second sentence of section 103(a)(1)(A) of title I of the Elementary and Secondary Education Act of 1965 is amended to read as follows: "In addition, he shall allot from such amount to the Secretary of the Interior—

"(i) the amount necessary to make payments pursuant to subparagraph (B); and

"(ii) in the case of fiscal years ending prior to July 1, 1973, the amount necessary to make payments pursuant to subparagraph (C).".

(2)(A) Section 103(a)(1) of such title I is amended by adding at the end thereof the following new subparagraph:

"(C) The maximum amount allotted for payments to the Secretary of the Interior under clause (ii) in the second sentence of subparagraph (A) for any fiscal year shall be the amount necessary to meet the special educational needs of educationally deprived Indian children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior, as determined pursuant to criteria established by the Commissioner. Such payments shall be made pursuant to an agreement between the Commissioner and the Secretary containing such assurances and terms as the Commissioner determines will best achieve the purposes of this part. Such agreement shall contain (1) an assurance that payments made pursuant to this subparagraph will be used solely for programs and projects approved by the Secretary of Interior which meet the applicable requirements of section 141(a) and that the Department of the Interior will comply in all other respects with the requirements of this title, and (2) provision for carrying out the applicable provisions of sections 141(a) and 142(a)(3).".

(B) The fourth sentence of section 103(a)(1)(A) of such title I is amended by striking out "and the terms upon which payment shall be made to the Department of the Interior.".

(3) The amendments made by this subsection shall be effective on and after July 1, 1972.

(c)(1) Subsection (a) of section 5 of Public Law 874, 81st Congress, as amended, is amended by inserting "(1)" after "(a)" and

by inserting at the end thereof the following new paragraph (2):

"(2)(A) Applications for payment on the basis of children determined under section 3(a) or 3(b) who reside, or reside with a parent employed, on Indian lands shall set forth adequate assurance that Indian children will participate on an equitable basis in the school program of the local educational agency.

"(B) For the purposes of this paragraph, Indian lands means that property included within the definition of Federal property under clause (A) of section 303(1).".

(2)(A) The Commissioner shall exercise his authority under section 415 of Public Law 90-247, to encourage local parental participation with respect to financial assistance under title I of Public Law 874, 81st Congress, based upon children who reside on, or reside with a parent employed on, Indian lands.

(B) For the purposes of this paragraph, the term "Indian lands" means that property included within the definition of Federal property under clause (A) of section 303(1) of Public Law 874, 81st Congress.

PART B—SPECIAL PROGRAMS AND PROJECTS TO IMPROVE EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN

AMENDMENT TO TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 421. (a) Title VIII of the Elementary and Secondary Education Act of 1965 is amended by adding to the end thereof the following new section:

"IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN

"SEC. 810. (a) The Commissioner shall carry out a program of making grants for the improvement of educational opportunities for Indian children—

"(1) to support planning, pilot, and demonstration projects, in accordance with subsection (b), which are designed to test and demonstrate the effectiveness of programs for improving educational opportunities for Indian children;

"(2) to assist in the establishment and operation of programs, in accordance with subsection (c), which are designed to stimulate (A) the provision of educational services not available to Indian children in sufficient quantity or quality, and (B) the development and establishment of exemplary educational programs to serve as models for regular school programs in which Indian children are educated;

"(3) to assist in the establishment and operation of preservice and inservice training programs, in accordance with subsection (d), for persons serving Indian children as educational personnel; and

"(4) to encourage the dissemination of information and materials relating to, and the evaluation of the effectiveness of, education programs which may offer educational opportunities to Indian children.

In the case of activities of the type described in clause (3), preference shall be given to the training of Indians.

"(b) The Commissioner is authorized to make grants to State and local educational agencies, federally supported elementary and secondary schools for Indian children and to Indian tribe organizations, and institutions to support planning, pilot, and demonstration projects which are designed to plan for, and test and demonstrate the effectiveness of, programs for improving educational opportunities for Indian children, including—

"(1) innovative programs related to the educational needs of educationally deprived children;

"(2) bilingual and bicultural education programs and projects;

"(3) special health and nutrition services, and other related activities, which meet the special health, social, and psychological problems of Indian children; and

"(4) coordinating the operation of other federally assisted programs which may be used to assist in meeting the needs of such children.

"(c) The Commissioner is also authorized to make grants to State and local educational agencies and to tribal and other Indian community organizations to assist and stimulate them in developing and establishing educational services and programs specifically designed to improve educational opportunities for Indian children. Grants may be used—

"(1) to provide educational services not available to such children in sufficient quantity or quality, including—

"(A) remedial and compensatory instruction, school health, physical education, psychological, and other services designed to assist and encourage Indian children to enter, remain in, or reenter elementary or secondary school;

"(B) comprehensive academic and vocational instruction;

"(C) instructional materials (such as library books, textbooks, and other printed or published or audiovisual materials) and equipment;

"(D) comprehensive guidance, counseling, and testing services;

"(E) special education programs for handicapped;

"(F) preschool programs;

"(G) bilingual and bicultural education programs; and

"(H) other services which meet the purposes of this subsection; and

"(2) for the establishment and operation of exemplary and innovative educational programs and centers, involving new educational approaches, methods, and techniques designed to enrich programs of elementary and secondary education for Indian children.

"(d) The Commissioner is also authorized to make grants to institutions of higher education and to State and local educational agencies, in combination with institutions of higher education, for carrying out programs and projects—

"(1) to prepare persons to serve Indian children as teachers, teacher aides, social workers, and ancillary educational personnel; and

"(2) to improve the qualifications of such persons who are serving Indian children in such capacities.

Grants for the purposes of this subsection may be used for the establishment of fellowship programs leading to an advanced degree, for institutes and, as part of a continuing program, for seminars, symposia, workshops, and conferences.

"(e) The Commissioner is also authorized to make grants to and contracts with, public agencies, and institutions and Indian tribes, institutions, and organizations for—

"(1) the dissemination of information concerning education programs, services, and resources available to Indian children, including evaluations thereof; and

"(2) the evaluation of the effectiveness of federally assisted programs in which Indian children may participate in achieving the purposes of such programs with respect to such children.

"(f) Applicants for a grant under this section shall be submitted at such time, in such manner, and shall contain such information, and shall be consistent with such criteria, as may be established as requirements in regulations promulgated by the Commissioner. Such applicants shall—

"(1) set forth a statement describing the activities for which assistance is sought;

"(2) in the case of an application for the purposes of subsection (c), subject to such criteria as the Commissioner shall prescribe, provide for the use of funds available under this section, and for the coordination of other resources available to the applicant, in order to insure that, within the scope of the purpose of the project, there will be a comprehensive program to achieve the purposes of this section;

"(3) in the case of an application for the purposes of subsection (c), make adequate provision for the training of the personnel participating in the project; and

"(4) provide for an evaluation of effectiveness of the project in achieving its purposes and those of this section.

The Commissioner shall not approve an application for a grant under subsection (b) or (c) unless he is satisfied that such application, and any documents submitted with respect thereto, show that there has been adequate participation by the parents of the children to be served and tribal communities in the planning and development of the project, and that there will be such a participation in the operation and evaluation of the project. In approving applications under this section, the Commissioner shall give priority to applications from Indian educational agencies, organizations, and institutions.

"(g) For the purpose of making grants under this section there are hereby authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1973, and $35,000,000 for each of the two succeeding fiscal years.".

(b)(1)(A) The third sentence of section 202(a)(1) of the Elementary and Secondary Education Act of 1965 is amended by striking out "July 1, 1972," and inserting in lieu thereof "July 1, 1973,".

(B) The third sentence of section 302(a)(1) of the Elementary and Secondary Education Act of 1965 is amended by striking out "July 1, 1972," and inserting in lieu thereof "July 1, 1973.".

(C) Clause (B) of section 612(a)(1) of Public Law 91-230 is amended by striking out "July 1, 1972," and inserting in lieu thereof "July 1, 1973,".

(2) For the purposes of titles II and III of the Elementary and Secondary Education Act of 1965 and part B of title VI of Public Law 91-230, the Secretary of the Interior shall have the same duties and responsibilities with respect to funds paid to him under such titles, as he would have if the Department of the Interior were a State educational agency having responsibility for the administration of a State plan under such titles.

PART C—SPECIAL PROGRAMS RELATING TO ADULT EDUCATION FOR INDIANS

AMENDMENT TO THE ADULT EDUCATION ACT

SEC. 431. Title III of the Elementary and Secondary Education Amendments of 1966 (the Adult Education Act) is amended by redesignating sections 314 and 315, and all references thereto, as sections 315 and 316, respectively, and by adding after section 313 the following new section:

"IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR ADULT INDIANS

"SEC. 314. (a) The Commissioner shall carry out a program of making grants to State and local educational agencies, and to Indian tribes, institutions, and organizations, to support planning, pilot, and demonstration projects which are designed to plan for, and test and demonstrate the effectiveness of, programs for providing adult education for Indians—

"(1) to support planning, pilot, and demonstration projects which are designed to test and demonstrate the effectiveness of programs for improving employment and educational opportunities for adult Indians;

"(2) to assist in the establishment and operation of programs which are designed to stimulate (A) the provision of basic literacy opportunities to all nonliterate Indian adults, and (B) the provision of opportunities to all Indian adults to qualify for a high school equivalency certificate in the shortest period of time feasible;

"(3) to support a major research and development program to develop more innovative and effective techniques for achieving the literacy and high school equivalency goals;

"(4) to provide for basic surveys and evaluations thereof to define accurately the extent of the problems of illiteracy and lack of high school completion on Indian reservations;

"(5) to encourage the dissemination of information and materials relating to, and the evaluation of the effectiveness of, education programs which may offer educational opportunities to Indian adults.

"(b) The Commissioner is also authorized to make grants to, and contracts with, public agencies and institutions, and Indian tribes, institutions, and organizations for—

"(1) the dissemination of information concerning educational programs, services, and resources available to Indian adults, including evaluations thereof; and

"(2) the evaluation of the effectiveness of federally assisted programs in which Indian adults may participate in achieving the purposes of such programs with respect to such adults.

"(c) Applications for a grant under this section shall be submitted at such time, in such manner, and contain such information, and shall be consistent with such criteria, as may be established as requirements in regulations promulgated by the Commissioner. Such applications shall—

"(1) set forth a statement describing the activities for which assistance is sought;

"(2) provide for an evaluation of the effectiveness of the project in achieving its purposes and those of this section.

The Commissioner shall not approve an application for a grant under subsection (a) unless he is satisfied that such application, and any documents submitted with respect thereto, indicate that there has been adequate participation by the individuals to be served and tribal communities in the planning and development of the project, and that there will be such a participation in the operation and evaluation of the project. In approving applications under subsection (a), the Commissioner shall give priority to applications from Indian educational agencies, organizations, and institutions.

"(d) For the purpose of making grants under this section there are hereby authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1973, and $8,000,000 for each of the two succeeding fiscal years.".

PART D—OFFICE OF INDIAN EDUCATION

OFFICE OF INDIAN EDUCATION

SEC. 441. (a) There is hereby established, in the Office of Education, a bureau to be known as the "Office of Indian Education" which, under the direction of the Commissioner, shall have the responsibility for administering the provisions of title III of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), as added by this Act, section 810 of title VIII of the Elementary and Secondary Education Act of 1965, as added by this Act, and section 314 of title III of the Elementary and Secondary Education Amendments of 1966, as added by this Act. The Office shall be headed by a Deputy Commissioner of Indian Education, who shall be appointed by the Commissioner of Education from a list of nominees submitted to him by the National Advisory Council on Indian Education.

(b) The Deputy Commissioner of Indian Education shall be compensated at the rate prescribed for, and shall be placed in, grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code, and shall perform such duties as are delegated or assigned to him by the Commissioner. The position created by this subsection shall be in addition to the number of positions placed in grade 18 of such General Schedule under section 5108 of title 5, United States Code.

NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

SEC. 442. (a) There is hereby established the National Advisory Council on Indian Education (referred to in this title as the "National Council"), which shall consist of fifteen members who are Indians and *Alaska* Natives appointed by the President of the United States. Such appointments shall be made by the President from lists of nominees furnished, from time to time, by Indian tribes and organizations, and shall represent diverse geographic areas of the country.

(b) The National Council shall—

(1) advise the Commissioner of Education with respect to the administration (including the development of regulations and of administrative practices and policies) of any program in which Indian children or adults participate from which they can benefit, including title III of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress, as added by this Act, and section 810, title VIII of the Elementary and Secondary Education Act of 1965, as added by this Act and with respect to adequate funding thereof;

(2) review applications for assistance under title III of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), as added by this Act, section 810 of title VIII of the Elementary and Secondary Education Act of 1965, as added by this Act, and section 314 of the Adult Education Act, as added by this Act, and make recommendations to the Commissioner with respect to their approval;

(3) evaluate program and projects carried out under any program of the Department of Health, Education, and Welfare in which Indian children or adults can participate or from which they can benefit, and disseminate the results of such evaluations;

(4) provide technical assistance to local educational agencies and to Indian educational agencies, institutions, and organizations to assist them in improving the education of Indian children;

(5) assist the Commissioner in developing criteria and regulations for the administration and evaluation of grants made under section 303(b) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress); and

(6) to submit to the Congress not later than March 31 of each year a report on its activities, which shall include any recommendations it may deem necessary for the improvement of Federal education programs in which Indian children and adults participate, or from which they can benefit, which report shall include statement of the National Council's recommendations to the Commissioner with respect to the funding of any such programs.

(c) With respect to functions of the National Council stated in clauses (2), (3), and (4) of subsection (b), the National Council is authorized to contract with any public or private nonprofit agency, institution, or organization for assistance in carrying out such functions.

(d) From the sums appropriated pursuant to section 401(c) of the General Education Provisions Act which are available for the purposes of section 411 of such Act and for part C of such Act, the Commissioner shall make available such sums as may be necessary to enable the National Council to carry out its functions under this section.

PART E—MISCELLANEOUS PROVISIONS

AMENDMENT TO TITLE V OF HIGHER EDUCATION ACT OF 1965

SEC. 451. (a) Section 503(a) of the Higher Education Act of 1965 is amended by inserting after "and higher education," the following: "including the need to provide such programs and education to Indians,".

(b) Part D of title V of the Higher Education Act of 1965 is amended by adding after section 531 the following new section:

"TEACHERS FOR INDIAN CHILDREN

"SEC. 532. Of the sums made available for the purposes of this part, not less than 5 per centum shall be used for grants to, and contracts with, institutions of higher education and other public and private nonprofit agencies and organizations for the purpose of preparing persons to serve as teachers of children living on reservations serviced by elementary and secondary schools for Indian children operated or supported by the Department of the Interior.".

AMENDMENT TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 452. Section 706(a) of the Elementary and Secondary Education Act of 1965 is amended to read as follows:

"SEC. 706. (a) For the purpose of carrying out programs pursuant to this title for individuals on or from reservations serviced by elementary and secondary schools operated on or near such reservations for Indian children, a nonprofit institution or organization of the Indian trible concerned which operate any such school and which is approved by the Commissioner for the purpose of this section, may be considered to be a local educational agency, as such term is used in this title.".

DEFINITION

SEC. 453. For the purposes of this title, the term "Indian" means any individual who (1) is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member, or (2) is considered by the Secretary of the Interior to be an Indian for any purpose, or (3) is an Eskimo or Aleut or other Alaska Native, or (4) is determined to be an Indian under regulations promulgated by the Commissioner, after consultation with the National Advisory Council on Indian Education which regulations shall further define the term "Indian".

TITLE V—MISCELLANEOUS

ADMINISTRATION OF PROGRAMS AND PROJECTS

SEC. 501. Section 434 of the General Education Provisions Act (title IV of Public Law 90–247) is amended by—

(1) amending the caption head thereof to read "ADMINISTRATION OF EDUCATION PROGRAMS AND PROJECTS";

(2) striking out "(a)" after "SEC. 424." and inserting in lieu thereof "(a)(1)" and striking out "(b)" and inserting in lieu thereof "(2)";

(3) adding at the end thereof the following new subsection:

"(b) Each application for assistance under any applicable program, with respect to which the Commissioner determines that this subsection should apply, whether such application is approved by the Commissioner or by an agency administering a State plan approved by him and each State plan submitted to the Commissioner under any applicable program shall, as a precondition for approval—

"(1) provide for such methods of administration as are necessary for the proper and efficient administration of the program or project for which application is made;

"(2) set forth such policies and procedures as will insure that Federal funds made available under the application will so be used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such funds, be available for the purposes of the program or project for which application is made, and in no case supplant such funds;

"(3) procedures have been adopted (A)

for the periodic evaluation of the effectiveness of the programs to be supported under such title, and (B) for appropriate dissemination of the results of such evaluation;

"(4) make provision for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the applicant under the application; and

"(5) provide for making such reports as the Commissioner may require to carry out his functions.".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS OF TITLE III OF THE NATIONAL DEFENSE EDUCATION ACT OF 1958

SEC. 502. (a) The first sentence of section 301 of the National Defense Education Act of 1958 is amended by striking out "for the fiscal year ending June 30, 1971" and inserting in lieu thereof "for each of the succeeding fiscal years ending prior to July 1, 1975".

(b) The second sentence of such section 301 is amended by striking out "July 1, 1971" and inserting in lieu thereof "July 1, 1975".

STUDY AND REPORT ON RULES AND REGULATIONS

SEC. 503. (a) The Commissioner shall conduct a study of all rules, regulations, guidelines, or other published interpretations or orders issued by him or by the Secretary of Health, Education, and Welfare (or any of their delegates) in connection with, or affecting, the administration of any program to which the General Education Provisions Act applies, which have been issued after July 30, 1965. Such study shall include a review of each such rule, regulation, guideline, interpretation, or order as it relates to the statutory or other legal authority upon which it is based, and to committee reports relating to such statutory authority.

(b) No later than one hundred and twenty days after the enactment of this Act, the Commissioner shall submit a report on the study conducted pursuant to subsection (a) to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives, which report shall include the specific legal authority of each section, or other division, of each rule, regulation, guideline, interpretation, or other order to which this section applies.

(c) Not earlier than one hundred and fifty days after the date of the enactment of this Act nor later than one hundred eighty days after such date all rules, regulations, guidelines, interpretations, or other orders to which this section applies shall be published in the Federal Register. During the thirty-day period following such publication, the Commissioner shall provide interested parties an opportunity for a public hearing on the matters so published.

(d) After a study of comments and recommendations offered to the Commissioner during the thirty-day period specified in subsection (c), he shall submit a report to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives on such comments and recommendations, and any action he has taken as a result thereof, and he shall, not later than two-hundred ten days after the enactment of this Act, republish all rules, regulations, guidelines, interpretations and orders in the Federal Register, which shall supersede all preceding rules, regulations, guidelines, interpretations and orders issued in connection with, or affecting, any program to which the General Education Provisions Act applies, and become effective thirty days after such republication.

ETHNIC HERITAGE STUDIES CENTERS

SEC. 504. (a) The Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new title:

"TITLE IX—ETHNIC HERITAGE PROGRAMS

"STATEMENT OF POLICY

"SEC. 901. In recognition of the heterogeneous composition of the Nation and of the fact that in a multiethnic society a greater understanding of the contributions of one's own heritage and those of one's fellow citizens can contribute to a more harmonious, patriotic, and committed populace, and in recognition of the principle that all persons in the educational institutions of the Nation should have an opportunity to learn about the differing and unique contributions to the national heritage made by each ethnic group, it is the purpose of this title to provide assistance designed to afford to students opportunities to learn about the nature of their own cultural heritage, and to study the contributions of the cultural heritages of the ethnic groups of the Nation.

"ETHNIC HERITAGE STUDIES CENTERS

"SEC. 902. The Commissioner is authorized to make grants to, and contracts with, public and private nonprofit educational agencies, institutions, and organizations to assist them in planning, developing, establishing, and operating ethnic heritage studies centers, as provided in this title.

"ACTIVITIES OF ETHNIC HERITAGE STUDIES CENTERS

"SEC. 903. Each center assisted under this title shall—

"(1) develop curriculum materials for use in elementary and secondary schools and institutions of higher education relating to the history, geography, society, economy, literature, art, music, drama, language, and general culture of the groups with which the center is concerned, and the contributions of those ethnic groups to the American heritage;

"(2) disseminate curriculum materials to permit their use in elementary and secondary schools and institutions of higher education throughout the Nation;

"(3) provide training for persons using, or preparing to use, curriculum materials developed under this title; and

"(4) cooperate with persons and organizations in the communities being served by the center to assist them in promoting, encouraging, developing, or producing programs or other activities in such communities which relate to the history, culture, or traditions of ethnic groups.

"APPLICATIONS

"SEC. 904. (a) Any public or private nonprofit agency, institution, or organization desiring assistance to establish and operate a center under this title shall make application therefor in accordance with the provisions of this title and other applicable law and with regulations of the Commissioner promulgated for the purposes of this title. The Commissioner shall approve an application under this title only if he determines that—

"(1) the center for which the application seeks assistance will be operated by the applicant and that the applicant will operate such center in accordance with this title;

"(2) such center will be operated under the direction of a Director who will be selected by the Commissioner, in consultation with, and with the approval of, the applicant;

"(3) such center will carry out the activities described in section 903 and will offer programs and courses of study related to all ethnic groups represented in the area to be served; and

"(4) such center has been planned, and will be established and operated, in consultation with an advisory council which is representative of the ethnic groups in the area to be served and of the cultural and educational resources of such area and which is appointed in a manner prescribed by regulation.

"(b) In approving applications under this title, the Commissioner shall insure there is cooperation and coordination of efforts among the Ethnic Heritage Studies Centers assisted under this title, including the exchange of materials and information and joint projects where appropriate.

"ADMINISTRATIVE PROVISIONS

"SEC. 905. (a) In carrying out this title, the Commissioner shall make arrangements which will utilize (1) the research facilities and personnel of institutions of higher education, (2) the special knowledge of ethnic groups in local communities and of foreign students pursuing their education in this country, (3) the expertise of teachers in elementary and secondary schools and institutions of higher education, and (4) the talents and experience of any other groups in the regional area to be served by centers assisted under this title such as foundations, which would further the goals of the centers.

"(b) Funds appropriated to carry out this title may be used to cover all or part of the cost of establishing, equipping, and operating the centers, including the cost of research materials and resources, academic consultants, and the cost of training of staff for the purpose of carrying out the purposes of this title. Such funds may also be used to provide stipends (in such amounts as may be determined in accordance with regulations of the Commissioner) to individuals receiving training in such centers, including allowances for dependents.

"NATIONAL ADVISORY COUNCIL

"SEC. 906. (a) There is hereby established a National Advisory Council on Ethnic Heritage Studies consisting of fifteen members appointed by the Secretary who shall be appointed, serve, and be compensated as provided in part D of the General Education Provisions Act.

"(b) Such Council shall, with respect to the program authorized by this title, carry out the duties and functions specified in part D of the General Education Provisions Act.

"APPROPRIATIONS AUTHORIZED

"SEC. 907. For the purpose of carrying out this title, there are authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1972, and $20,000,000 for the fiscal year ending June 30, 1973. Sums appropriated pursuant to this section shall, notwithstanding any other provisions of law unless enacted in express limitation of this sentence, remain available for expenditure and obligation until the end of the fiscal year succeeding the fiscal year for which they were appropriated.".

(b) The amendment made by subsection (a) shall be effective after June 30, 1971.

CONSUMER'S EDUCATION

SEC. 505. (a) (1) The Congress of the United States finds that there do not exist adequate resources for educating and informing consumers about their role as participants in the marketplace.

(2) It is the purpose of the amendment made by this section to encourage and support the development of new improved curriculums to prepare consumers for participation in the marketplace to demonstrate the use of such curriculums in model educational programs and to evaluate the effectiveness thereof; to provide support for the initiation and maintenance of programs in consumer education at the elementary and secondary and higher education levels; to disseminate curricular materials and other information for use in educational programs throughout the Nation; to provide training programs for teachers, other educational personnel, public service personnel, and community and labor leaders and employees, and government employees at State, Federal, and local levels; to provide for community consumer education

programs; and to provide for the preparation and distribution of materials by mass media in dealing with consumer education.

(3) Title VIII of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new section:

"CONSUMERS' EDUCATION PROGRAMS

"SEC. 811. (a) There shall be within the Office of Education, a Director of Consumers' Education (hereafter in this section referred to as the 'Director') who, subject to the management of the Commissioner, shall have primary responsibility for carrying out the provisions of this section and who shall be placed in grade 17 of the General Schedule set forth in section 5332 of title 5, United States Code. The position created by this subsection shall be in addition to the number of positions placed in such grade 17 under section 5108 of title 5, United States Code.

"(b)(1)(A) The Director shall carry out a program of making grants to, and contracts with, institutions of higher education. State and local educational agencies. and other public and private agencies, organizations, and institutions (including libraries) to support research, demonstration, and pilot projects designed to provide consumer education to the public except that no grant may be made other than to a nonprofit agency, organization, or institution.

"(B) Funds appropriated for grants and contracts under this section shall be available for such activities as—

"(i) the development of curricula (including interdisciplinary curricula) in consumer education;

"(ii) dissemination of information relating to such curricula;

"(iii) in the case of grants to State and local educational agencies and institutions of higher education, for the support of education programs at the elementary and secondary and higher education levels; and

"(iv) preservice and inservice training programs and projects (including fellowship programs, institutes, workshops, symposiums, and seminars) for educational personnel to prepare them to teach in subject matter areas associated with consumer education.

In addition to the activities specified in the first sentence of this paragraph, such funds may be used for projects designed to demonstrate, test, and evaluate the effectiveness of any activities, whether or not assisted under this section. Activities pursuant to this section shall provide bilingual assistance when appropriate.

("C) Financial assistance under this subsection may be made available only upon application to the Director. Applications under this subsection shall be submitted at such time, in such form, and containing such information as the Director shall prescribe by regulation and shall be approved only if it—

"(i) provides that the activities and service for which assistance is sought will be administered by, or under the supervision of, the applicant;

"(ii) describes a program for carrying out one or more of the purposes set forth in the first sentence of paragraph (2) which holds promise of making a substantial contribution toward attaining the purposes of this section;

"(iii) sets forth such policies and procedures as will insure adequate evaluation of the activities intended to be carried out under the application;

"(iv) sets forth policies and procedures which assure that Federal funds made available under this section for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purposes described in this section, and in no case supplant such funds;

"(v) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this section; and

"(vi) provides for making an annual report and such other reports, in such form and containing such information, as the Commissioner may reasonably require and for keeping such records, and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

Applications from local educational agencies for financial assistance under this section may be approved by the Director only if the State educational agency has been notified of the application and been given the opportunity to offer recommendations.

"(2) Federal assistance to any program or project under this subsection, other than those involving curriculum development, dissemination of curricular materials, and evaluation, shall support up to 100 per centum of the cost of such program including costs of administration; contributions in kind are acceptable as local contributions to program costs.

(c) Each recipient of Federal funds under this section shall make such reports and evaluations as the Commissioner shall prescribe by regulation.

"(d) There is authorized to be appropriated $20,000,000 for the fiscal year ending June 30, 1973; $25,000,000 for the fiscal year ending June 30, 1974; and $35,000,000 for the year ending June 30, 1975, for carrying out the purposes of this section.".

(b) The amendment made by this section shall be effective after June 30, 1972.

LAND-GRANT STATUS FOR THE COLLEGE OF THE VIRGIN ISLANDS AND THE UNIVERSITY OF GUAM

SEC. 506. (a) The College of the Virgin Islands and the University of Guam shall be considered land-grant colleges established for the benefit of agriculture and mechanic arts in accordance with the provisions of the Act of July 2, 1862, as amended (12 Stat. 503; 7 U.S.C. 301–305, 307, 308).

(b)(1) In lieu of extending to the Virgin Islands and Guam those provisions of the Act of July 2, 1862, as amended, relating to donations of public land or land script for the endowment and maintenance of colleges for the benefit of agriculture and the mechanic arts, there is authorized to be appropriated to the Virgin Islands and Guam an amount computed in accordance with paragraph (2). Amounts appropriated pursuant to this section shall be held and considered to have been granted to the Virgin Islands and Guam subject to the provisions of that Act applicable to the proceeds from the sale of land or land script.

(2)(A) The amounts authorized to be appropriated pursuant to paragraph (1) shall be computed in the following manner:

(i) In the case of the Virgin Islands, the amount so authorized shall be an amount which bears the same ratio to the population of the Virgin Islands at the beginning of the first calendar year which begins after the enactment of this section as $6,000,000 bore to the population of the State of Hawaii as determined by the census of 1950.

(ii) In the case of Guam, the amount so authorized shall be an amount which bears the same ratio to the population of Guam at the beginning of the first calendar year which begins after the enactment of this section as $6,000,000 bore to the population of the State of Hawaii as determined by the census of 1950.

(B) The population of the Virgin Islands and Guam at the beginning of the first calendar year which begins after the enactment of this section shall be estimated by the Commissioner on the basis of the most recent satisfactory data available to him. Estimates of such population shall be published in the Federal Register as soon as practicable after the beginning of the first calendar year which begins after the enactment of this section.

(c) The Act of August 30, 1890 (26 Stat. 417; 7 U.S.C. 3–22–326) is amended—

(1) by striking out "and Territory" wherever it appears and inserting in lieu thereof the following: ", Puerto Rico, the Virgin Islands, and Guam";

(2) by striking out "and Territories" wherever it appears and inserting in lieu thereof the following: ", Puerto Rico, the Virgin Islands, and Guam";

(3) by striking out "or Territory" wherever it appears and inserting in lieu thereof the following: ", Puerto Rico, the Virgin Islands, or Guam";

(4) by striking out "or Territories" wherever it appears and inserting in lieu thereof the following: ", Puerto Rico, the Virgin Islands, or Guam"; and

(5) by striking out "or Territorial" where it appears.

(d) Section 22 of the Act of June 29, 1935, as amended (49 Stat. 439; 7 U.S.C. 329), is further amended—

(1) by striking out "and Puerto Rico" wherever it appears and inserting in lieu thereof the following: "; Puerto Rico, the Virgin Islands, and Guam";

(2) by striking out "$7,800,000" and inserting in lieu thereof the figure "$8,100,000"; and

(3) by striking out "$4,320,000" and inserting in lieu thereof the figure "$4,360,000".

(e) The Act of March 4, 1940 (54 Stat. 39; 7 U.S.C. 331) is amended—

(1) by striking out "and Territories" wherever it appears and inserting in lieu thereof the following: ", Puerto Rico, the Virgin Islands, and Guam";

(2) by striking out "or Territories" wherever it appears and inserting in lieu thereof the following: ", Puerto Rico, the Virgin Islands, or Guam"; and

(3) by striking out "State" wherever it appears in the third proviso of that Act and inserting in lieu thereof the following: "State, Puerto Rico, the Virgin Islands, or Guam".

(f) Section 27 of the Agricultural Marketing Act of 1946 (60 Stat. 1091; 7 U.S.C. 1626), is amended by striking out the period at the end of the section and inserting in lieu thereof the following: ", and the term 'State' when used in this chapter shall include the Virgin Islands and Guam.".

(g) Section 3 of the Act of May 8, 1914, as amended (38 Stat. 373; 7 U.S.C. 343), is further amended by redesignating subsection (b) as paragraph (1) of subsection (b), and adding a new paragraph (2) to subsection (b) to read as follows:

"(2) There is authorized to be appropriated for the fiscal year ending June 30, 1971, and for each fiscal year thereafter, for payment to the Virgin Islands and Guam, $100,000 each, which sums shall be in addition to the sums appropriated for the several States of the United States and Puerto Rico under the provisions of this section. The amount paid by the Federal Government to the Virgin Islands and Guam pursuant to this paragraph shall not exceed during any fiscal year, except the fiscal years ending June 30, 1971, and June 30, 1972, when such amount may be used to pay the total cost of providing services pursuant to this Act, the amount available and budgeted for expenditure by the Virgin Islands and Guam for the purposes of this Act.".

(h) Section 10 of the Act of May 8, 1914, is amended by striking out "and Puerto Rico" and inserting in lieu thereof the following: ", Puerto Rico, the Virgin Islands, and Guam".

(i) Section 4 of the Act of October 10, 1962 (76 Stat. 806; 16 U.S.C. 582a–3), is amended by striking out the period at the end of the first sentence thereof and inserting in lieu thereof the following: ", except that for the fiscal years ending June 30, 1971,

and June 30, 1972, the matching funds requirement hereof shall not be applicable to the Virgin Islands and Guam, and sums authorized for such years for the Virgin Islands and Guam may be used to pay the total cost of programs for forestry research.".

(j) Section 8 of the Act of October 10, 1962 (76 Stat. 807; 16 U.S.C. 582a–7), is amended by striking out the period at the end thereof and inserting in lieu thereof the following: ", the Virgin Islands, and Guam.".

(k) Section 1 of the Act of August 11, 1955 (7 U.S.C. 361a–361i), is amended by striking out the period at the end of the second sentence and inserting in lieu thereof the following: "Guam and the Virgin Islands," and striking out "and" between the words "Hawaii and Puerto Rico.".

(l) Section 3 of the Act of August 11, 1955 (7 U.S.C. 361a–361i) is amended by redesignating subsection (b) as paragraph (1) of subsection (b), and adding a new paragraph (2) to subsection (b) to read as follows:

"(2) There is authorized to be appropriated for the fiscal year ending June 30, 1973, and for each fiscal year thereafter, for payment to the Virgin Islands and Guam, $100,000 each, which sums shall be in addition to the sums appropriated for the several States of the United States and Puerto Rico under the provisions of this section. The amount paid by the Federal Government to the Virgin Islands and Guam pursuant to this paragraph shall not exceed during any fiscal year, except the fiscal years ending June 30, 1971, and June 30, 1972, when such amount may be used to pay the total cost of providing services pursuant to this Act, the amount available and budgeted for expenditure by the Virgin Islands and Guam for the purposes of this Act.".

(m) With respect to the Virgin Islands and Guam, the enactment of this section shall be deemed to satisfy any requirement of State consent contained in laws or provisions of law referred to in this section.

(n) The amendments made by this section shall be effective after June 30, 1970, and this section shall be deemed to have been enacted on such date.

AMENDMENTS TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 WITH RESPECT TO MIGRATORY CHILDREN OF MIGRATORY AGRICULTURAL WORKERS

SEC. 507. (a) Section 103(a)(6) of title I of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new sentence: "The Commissioner shall by regulation establish criteria for the allocation of funds within each State for which a State educational agency is eligible under this paragraph, after considering the areas of the State and local educational agencies of the State which have the highest concentrations of such children.".

(b) Section 141(c)(1) of such title I is amended by striking out the word "and" at the end of clause (B) of such section, by redesignating clause (C) of such section as clause (D), and by inserting immediately after clause (B) the following new clause (C):

"(C) that, effective after June 30, 1971, in planning and carrying out programs and projects, there has been adequate assurance that provision will be made for the preschool educational needs of migratory children of migratory agricultural workers, whenever such agency determines that compliance with this clause will not detract from the operation of programs and projects described in clause (A) of this paragraph after considering the funds available for this purpose; and".

(c) Section 141(3)(C) of such title I is amended by adding at the end thereof the following new sentence: "Such children who are presently migrant, as determined pursuant to regulations of the Commissioner, shall be given priority in the consideration of programs and activities contained in applications submitted under this section."

(d)(1) The Commissioner shall conduct a study of the operation of title I of the Elementary and Secondary Education Act of 1965 as such title affects the education of migratory children of migratory agricultural workers. Such study shall include an evaluation of the specific programs and projects assisted under such title I for such children, with a view toward the assessment of their effectiveness, and shall include a review of the administration of such programs and projects by the States.

(2) Not later than December 31, 1972, the Commisisoner shall submit a report on the study required by paragraph (1), which report shall contain a statement with respect to the effectiveness of individual programs and projects assisted under such title I with respect to migrant children, an evaluation of State administration of such programs and projects, and make recommendations for the improvement of such programs and projects.

TECHNICAL AMENDMENT WITH RESPECT TO NEGLECTED OR DELINQUENT CHILDREN

SEC. 508. Section 103(a)(7) of title I of the Elementary and Secondary Education Act of 1965, is amended by striking out "for children in institutions for neglected or delinquent children" and inserting in lieu thereof the following: "for children in institutions for neglected or delinquent children or in adult correctional institutions, if such funds are used solely for delinquent children".

NUMBER OF MEMBERS OF THE NATIONAL COMMISSION ON SCHOOL FINANCE

SEC. 509. Section 809(d) of Public Law 91–230 is amended by striking out "fifteen members" and inserting in lieu thereof "eighteen members".

TITLE VI—YOUTH CAMP SAFETY

SHORT TITLE

SEC. 601. This title shall be cited as the "Youth Camp Safety Act".

STATEMENT OF PURPOSE

SEC. 602. It is the purpose of this title to protect and safeguard the health and well-being of the youth of the Nation attending day camps, resident camps, and travel camps, by providing for the establishment of Federal standards for safe operation of youth camps, and to provide Federal assistance and leadership to the States in developing programs for implementing safety standards for youth camps, thereby providing assurance to parents and interested citizens that youth camps meet minimum safety standards.

DEFINITIONS

SEC. 603. As used in this title—

(a) The term "youth camp" means:

(1) any parcel or parcels of land having the general characteristics and features of a camp as the term is generally understood, used wholly or in part for recreational or educational purposes and accommodating for profit or under philanthropic or charitable auspices five or more children under eighteen years of age, living apart from their relatives, parents, or legal guardians for a period or, or portions of, five days or more, and includes a site that is operated as a day camp or as a resident camp; and

(2) any travel camp which for profit or under philanthropic or charitable auspices, sponsors or conducts group tours within the United States, or foreign group tours originating of terminating within the United States, for educational or recreational purposes, accommodating within the group five or more children under eighteen years of age living apart from their relatives, parent, or legal guardians for a period of five days or more.

(b) The term "person" means any individual, partnership, corporation, association, or other form of business enterprises.

(c) The term "safety standards" means criteria directed toward safe operation of youth camps, in such areas as—but not limited to—personnel qualifications for director and staff; ratio of staff to campers; sanitation and public health; personal health, first aid, and medical services; food handling, mass feeding, and cleaniness; water supply and waste disposal, water safety including use of lakes and rivers, swimming and boating equipment and practices; vehicle condition and operation; building and site design; equipment; and condition and density of use.

(d) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(e) The term "State" includes each of the several States and the District of Columbia.

GRANTS TO STATES FOR YOUTH CAMP SAFETY STANDARDS

SEC. 604. From sums appropriated pursuant to section 610 of this Act, but not to exceed $2,500,000 of such appropriation for any fiscal year, the Secretary is authorized to make grants to States which have State plans approved by him under section 606 to pay up to 50 per centum of the cost of developing and administering States programs for youth camp safety standards.

DEVELOPING FEDERAL STANDARDS

SEC. 605. In developing Federal standards for youth camps, the Secretary shall—

(a) undertake a study of existing State and local regulations and standards, and standards developed by private organizations, applicable to youth camp safety, including the enforcement of such State, local, and private regulations and standards;

(b) establish and publish youth camp safety standards within one year after enactment of the title, after consultation with State officials and with representatives of appropriate private and public organizations after opportunity for hearings and notification published in the Federal Register; and

(c) authorize and encourage camps certified by the States as complying with the published Federal youth camp standards to advertise their compliance with minimum safety standards.

STATE PLANS

SEC. 606. (a) Any State desiring to participate in the grant program under this title shall designate or create an appropriate State agency for the purpose of this section, and submit, through such State agency, a State plan which shall—

(1) set forth a program for State supervised annual inspection of, and certification of compliance with, minimum safety standards developed under the provisions of sections 605 and 609(a) of this title, at youth camps located in such State;

(2) provide assurances that the State will accept and apply such minimum youth camp safety standards as the Secretary shall by regulations prescribe;

(3) provide for the administration of such plan by such State agency;

(4) provide for an advisory committee, to advise the State agency on the general policy involved in inspection and certification procedures under the State plan, which committee shall include among its members representatives of other State agencies concerned with camping or programs related thereto and persons representative of professional or civic or other public or nonprofit private agencies, organizations, or groups concerned with organized camping;

(5) provide that such State agency will make such reports in such form and containing such information as the Secretary may reasonably require;

(6) provide assurance that the State will pay from non-Federal sources the remaining cost of such program; and

(7) provide such fiscal control and fund accounting procedures as may be necessary

to assure proper disbursement of any accounting of funds received under this title.

(b) Any State desiring to enable youth camps in the State to advertise compliance with Federal youth camp standards, but which does not wish to participate in the grant programs under this title, shall designate or create an appropriate State agency for the purpose of this section, and submit, through such State agency a State plan which shall accomplish the steps specified in (a) (1) through (3) of this section, and which provides for availability of information so that the Secretary may be assured of compliance with the standards.

(c) The Secretary shall not finally disapprove any State plan submitted under this title or any modification thereof, without first affording such State agency reasonable notice and opportunity for a hearing.

DETERMINATION OF FEDERAL SHARE; PAYMENTS

SEC. 607. (a) The Secretary shall determine the amount of the Federal share of the cost of programs approved by him under section 606 based upon the funds appropriated therefor pursuant to section 610 for that fiscal year and upon the number of participating States; except that no State may receive a grant under this title for any fiscal year in excess of $50,000.

(b) Payments to a State under this title may be made in installments and in advance or by way of reimbursement with necessary adjustments on account of overpayments or underpayments.

OPERATION OF STATE PLANS; HEARINGS AND JUDICIAL REVIEW

SEC. 608. (a) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State agency administering a State plan approved under this title, finds that—

(1) the State plan has been so changed that it no longer complies with the provisions of section 606, or

(2) in the administration of the plan there is a failure to comply substantially with any such provision,

the Secretary shall notify such State agency that no further payments will be made to the State under this title (or in his discretion, that further payments to the State will be limited to programs or portions of the State plan not affected by such failure), until he is satisfied that there will no longer be any failure to comply. Until he is so satisfied, no further payments may be made to such State under this title (or payment shall be limited to programs or portions of the State plan not affected by such failure).

(b) A State agency dissatisfied with a final action of the Secretary under section 606 or subsection (a) of this section may appeal to the United States court of appeals for the circuit in which the State is located, by filing a petition with such court within sixty days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary or any officer designated by him for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part temporarily or permanently, but, until the filing of the record, the Secretary may modify or set aside his order. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this subsection shall not, unless so specifically ordered by the court, operate as a stay of the Secretary's action.

ADVISORY COUNCIL ON YOUTH CAMP SAFETY

SEC. 609. (a) The Secretary shall establish in the Department of Health, Education, and Welfare an Advisory Council on Youth Camp Safety to advise and consult on policy matters relating to youth camp safety, particularly the promulgation of youth camp safety standards. The Council shall consist of the Secretary, who shall be Chairman, and eighteen members appointed by him, without regard to the civil service laws, from persons who are specially qualified by experience and competence to render such service. Prior to making such appointments, the Secretary shall consult with appropriate associations representing organized camping.

(b) The Secretary may appoint such special advisory and technical experts and consultants as may be necessary in carrying out the functions of the Council.

(c) Members of the Advisory Council, while serving on business of the Advisory Council, shall receive compensation at a rate to be fixed by the Secretary, but not exceeding $100 per day, including traveltime; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

ADMINISTRATION

SEC. 610. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress at least once in each fiscal year a comprehensive and detailed report on the administration of this title.

(b) The Secretary is authorized to request directly from any department or agency of the Federal Government information, suggestions, estimates, and statistics needed to carry out his functions under this title; and such department or agency is authorized to furnish such information, suggestions, estimates, and statistics directly to the Secretary.

(c) Nothing in this title or regulations issued hereunder shall authorize the Secretary, a State agency, or any official acting under this law to restrict, determine, or influence the curriculum, program, or ministry of any youth camp.

AUTHORIZATION

SEC. 611. There are authorized to be appropriated to carry out the provisions of this Act the sum of $3,000,000 for the fiscal year ending June 30, 1972, and for each of the five succeeding fiscal years.

TITLE VII—EMERGENCY SCHOOL AID AND QUALITY INTEGRATED EDUCATION

SHORT TITLE

SEC. 701. This title may be cited as the "Emergency School Aid and Quality Integrated Education Act of 1971".

POLICY WITH RESPECT TO THE APPLICATION OF CERTAIN PROVISIONS OF FEDERAL LAW

SEC. 702. It is the policy of the United States that guidelines and criteria established pursuant to title VI of the Civil Rights Act of 1964, section 182 of the Elementary and Secondary Education Amendments of 1966, and this title, shall be applied uniformly in all regions of the United States in dealing with conditions of segregation by race whether de jure or de facto in the schools of the local educational agencies of any State without regard to the origin or cause of such segregation.

FINDINGS AND PURPOSE

SEC. 703. (a) The Congress hereby finds that the process of establishing and maintaining stable, quality, integrated schools and eliminating or preventing minority group isolation improves the quality of education for all children and often involves the expenditure of additional funds to which local educational agencies do not have access.

(b) It is the purpose of this title (1) to encourage comprehensive planning for the elimination of minority group isolation in school systems throughout the Nation, (2) to provide financial assistance to encourage the establishment and maintenance of stable, quality integrated schools throughout the Nation, serving students from all backgrounds, which offer enriched educational opportunities derived from the presence of children from diverse backgrounds in an environment sensitive to the potential contribution of each child to the education of all, through the use of modern educational methods, practices, and techniques, including, where appropriate, programs of integrated bilingual, bicultural education, (3) to assist in eliminating minority group isolation in public school systems throughout the Nation, and (4) to aid schoolchildren in overcoming the educational disadvantages of minority group isolation.

APPROPRIATIONS

SEC. 704. (a) The Commissioner, shall, in accordance with the provisions of this title, carry out a program designed to achieve the purposes set forth in section 703(b). There are authorized to be appropriated to the Commissioner, for the purpose of carrying out this title, $500,000,000 for the period beginning with the enactment of this title and ending June 30, 1972, and $1,000,000,000 for the fiscal year ending June 30, 1973. Funds so appropriated shall remain available for obligation and expenditure during the fiscal year succeeding the fiscal year for which they are appropriated, except that funds reserved pursuant to subsection (b) shall remain available until expended.

(b) (1) From the sums appropriated pursuant to subsection (a) for any fiscal year, the Commissioner shall reserve an amount equal to 15 per centum thereof for the purposes of section 709.

(2) From the sums appropriated pursuant to subsection (a) for any fiscal year, the Commissioner shall reserve an amount equal to 15 percentum thereof for the purposes of sections 708 (a) and (c), and 711, of which—

(A) not less than an amount equal to 4 per centum of such sum shall be for the purposes of section 708(c); and

(B) not less than an amount equal to 3 per centum of such sums shall be for the purposes of section 711.

APPORTIONMENT AMONG STATES

SEC. 705. (a) (1) From the sums appropriated pursuant to section 3(a) which are not reserved under section 704(b) or 713 for any fiscal year, the Commission shall apportion to each State for grants and contracts within that State an amount which bears the same ratio to such sums as the number of minority group children enrolled in elementary and secondary schools in that State bears to the number of such children in all the States, except that the amount apportioned to any State shall not be less than $100,000.

(2) Of the amount apportioned to each State under paragraph (1), the Commissioner shall, in accordance with criteria established by regulation, reserve not in excess of 22 per centum thereof for grants to, and contracts with, local educational agencies in that State pursuant to section 706(b).

(3) Of the amount apportioned to each State under paragraph (1), the Commissioner shall reserve not less than 15 percentum thereof for grants and contracts in that State pursuant to section 708(b).

(b) The amount of any State's apportion-

ment under subsection (a) which exceeds the amount which the Commissioner determines, in accordance with criteria established by regulation, will be required during the period for which the apportionment is available for programs and projects within such State, shall be available for reapportionment from time to time, on such dates during such period as the Commisioner shall fix by regulation, to other States in proportion to the original apportionments to such States under subsection (a). If the Commisioner determines, in accordance with criteria established by regulation, that the amount which would be reapportioned to a State under the first sentence of this subsection exceeds the amount which will be required during the period of the apportionment for programs and projects within such State, the amount of such State's reapportionment shall be reduced to the extent of such excess, and the total amount of any reductions pursuant to this sentence shall be available for reapportionment under the first sentence of this subsection. Any amount reapportioned to a State under this subsection during the period of any apportionment shall be deemed a part of its apportionment for that period. Any amount reserved pursuant to paragraph (3) of subsection (a) and reapportioned under this subsection shall be used solely for the purposes for which it was originally reserved.

ELIGIBILITY FOR ASSISTANCE

SEC. 706. (a) (1) (A) The Commissioner is authorized to make a grant to, or a contract with, a local educational agency—

(i) which is implementing a plan—

(I) which has been undertaken pursuant to a final order issued by a court of the United States, or a court of any State, which requires the desegregation of minority group segregated children or faculty in the elementary and secondary schools of such agency, or otherwise requires the elimination or reduction of minority group isolation in such schools; or

(II) which has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 for the desegregation of minority group segregated children or faculty in such schools;

(ii) which, without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this title, adopt and implement, a plan for the complete elimination of minority group isolation in all the minority group isolated schools of such agency; or

(iii) which has adopted and is implementing, or will, if assistance is made available to it under this Act, adopt and implement, a plan—

(I) to eliminate or reduce minority group isolation in one or more of the minority group isolated schools of such agency,

(II) to reduce the total number of minority group children who are in minority group isolated schools of such agency, or

(III) to prevent minority group isolation reasonably likely to occur (in the absence of assistance under this title) in any school of such agency, in which school at least 20 per centum, of the enrollment consists of such children.

(B) No local educational agency shall be eligible under subparagraph (A) unless the Commissioner determines, in accordance with regulations, that the local educational agency will establish or maintain or has established and will maintain at least one stable, quality integrated school and that the agency has adopted a comprehensive districtwide plan for the elimination of minority group isolation, to the maximum extent possible, in all schools of such agency.

(2) (A) The Commissioner is authorized, in accordance with special eligibility criteria established by regulation for the purposes of this paragraph, to make grants to, and contracts with, local educational agencies for the purposes of section 709(a) (1).

(B) A local educational agency shall be eligible for assistance under this paragraph only if—

(i) such agency is located within, or adjacent to, a Standard Metropolitan Statistical Area;

(ii) the schools of such agency are not attended by minority group children in a significant number or proportion; and

(iii) such local educational agency has made joint arrangements with a local educational agency, located within that Standard Metropolitan Statistical Area, and the schools of which are attended by minority group children in a significant proportion, for the establishment or maintenance of one or more stable, quality integrated schools as provided in section 709(a) (1).

(3) (A) Upon a determination by the Commissioner—

(i) that more than 50 per centum of the number of children in attendance at the schools of a local educational agency is minority group children;

(ii) that such local educational agency has adopted a comprehensive districtwide plan which meets the requirements of subparagraph (B) of paragraph (1) of this section; and

(iii) that such local educational agency has applied for and will receive at least an equal amount of assistance under subsection (b);

the Commissioner is authorized to make a grant to, or contract with, such local educational agency for the establishment or maintenance of one or more stable, quality integrated schools as defined in subparagraph (B).

(B) For the purposes of this paragraph (3), an integrated school shall be a school with (i) an enrollment in which a substantial proportion of the children is from educationally advantaged backgrounds, and in which the Commissioner determines that the number of nonminority group children constitutes that proportion of the enrollment which will achieve stability, in no event more than 60 per centum thereof, and (ii) a faculty which is representative of the minority group and nonminority group population of the larger community in which it is located, or, whenever the Commissioner determines that the local educational agency concerned is attempting to increase the proportions of minority group teachers, supervisors, and administrators in its employ, a faculty which is representative of the minority group and nonminority group faculty employed by the local educational agency.

(b) The Commissioner is authorized to make grants to, or contracts with, local educational agencies, which are eligible under subsection (a), for unusually promising pilot programs or projects designed to overcome the adverse effects of minority group isolation by improving the academic achievement of children in one or more minority group isolated schools, if he determines that the local educational agency had a number of minority group children enrolled in its schools, for the fiscal year preceding the fiscal year for which assistance is to be provided, (1) is at least 15,000, or (2) constitutes more than 50 per centum of the total number of children enrolled in such schools.

(c) No local educational agency making application under this section shall be eligible to receive a grant or contract in an amount in excess of the amount determined by the Commissioner, in accordance with regulations setting forth criteria established for such purpose, to be the additional cost to the applicant arising out of activities authorized under this title, above that of the activities normally carried out by the local educational agency.

(d) (1) No local educational agency shall be eligible for assistance under this title if it has, after the date of enactment of this title—

(A) transferred (directly or indirectly by gift, lease, loan, sale, or other means) real or personal property to, or made any services available to, any nonpublic school or school system (or any organization controlling, or intending to establish, such a school or school system) without prior determination that such nonpublic school or school system (i) is not operated on a racially segregated basis as an alternative for children seeking to avoid attendance in desegregated public schools, and (ii) does not otherwise practice, or permit to be practiced, discrimination on the basis of race, color, or national origin in the operation of any school activity;

(B) had in effect any practice, policy, or procedure which results (or has resulted) in the disproportionate demotion or dismissal of instructional or other personnel from minority groups in conjunction with desegregation or the conduct of an activity described in section 706, or otherwise engaged in discrimination based upon race, color, or national origin in the hiring, promotion, or assignment of employees of the agency (or other personnel for whom the agency has any administrative responsibility);

(C) in conjunction with desegregation or the conduct of an activity described in section 706, had in effect any procedure for the assignment of children to or within classes which results in the separation of minority group from nonminority group children for a substantial portion of the school day: *Provided, however,* That the foregoing does not prohibit the use of bona fide ability grouping by a local education agency as a standard pedagogical practice; or

(D) had in effect any other practice, policy, or procedure, such as limiting curricular or extracurricular activities (or participation therein by children) in order to avoid the participaton of minority group children in such activities which discriminates among children on the basis of race, color, or national origin;

except that, in the case of any local educational agency which is ineligible for assistance by reason of clause (A), (B), (C), or (D), such agency may make application for a waiver of ineligibility, which application shall specify the reason for its ineligibility, contain such information and assurances as the Secretary shall require by regulation in order to insure that any practice, policy, or procedure, or other activity resulting in the ineligibility has ceased to exist or occur and include such provisions as are necessary to insure that such activities do not reoccur after the submission of the application.

(2) (A) Except as is provided in subparagraph (B), no local educational agency shall be eligible for assistance under this title or for a waiver under paragraph (1) if—

(i) after August 18, 1970, it has caused to exist or occur, or has permitted to exist or occur, any transaction, practice, policy, or procedure described in clause (A), (B), (C), or (D) of paragraph (1) which would have rendered it ineligible if such transaction, practice, policy, or procedure existed or occurred after the date of enactment of this title; and

(ii) it has received assistance under the paragraph headed "Emergency School Assistance" in the Office of Education Appropriations Act, 1971 (Public Law 91-380).

(B) (i) In the case of any local educational agency which is ineligible for assistance under this title by reason of subparagraph (A), such agency may make a special application for a waiver of its ineligibility, which application shall include (I) all the specifications, procedures, assurances, and other information required for a waived under the exception set forth in paragraph (1), and (II) in addition, such other data, plans, assurances, and information as the Secretary shall re-

quire in order to insure compliance with this subparagraph (B).

(ii) The additional matters required by the Secretary under clause (II) of subparagraph (B) (i) shall at least include sufficient information as to enable the Commissioner to evaluate properly the application submitted under section 710 by the applicant for a special waiver under this subparagraph (B) and advise the Secretary with respect to the merit of the program for which assistance is sought.

(3) Applications for waivers under paragraphs (1) and (2) may be approved only by the Secretary. The Secretary's functions under this paragraph shall, notwithstanding any other provision of law, not be delegated.

(4) No application for assistance under this title shall be approved prior to a determination by the Commissioner that the applicant is not ineligible by reason of this subsection. No waiver under paragraph (2) shall be granted until the Commissioner has determined that the special applicant has submitted an application under section 710 proposing a program or project of extraordinary merit.

(5) All determinations pursuant to this subsection shall be carried out in accordance with criteria and investigative procedures established by regulations of the Secretary for the purpose of compliance with this subsection.

(6) All determinations and waivers pursuant to this subsection shall be in writing. The Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives shall each be given notice of an intention to grant any waiver under this subsection, which notice shall be accompanied by a copy of the proposed waiver for which notice is given and copies of all determinations relating to such waiver. The Commissioner shall not approve an application by a local educational agency which requires a waiver under this subsection prior to thirty days after receipt of the notice required by the preceding sentence by the chairman of the Committee on Labor and Public Welfare of the Senate and the chairman of the Committee on Education and Labor of the House of Representatives.

AUTHORIZED ACTIVITIES

SEC. 707. (a) Sums appropriated pursuant to section 704(a) and apportioned to a State pursuant to section 705 (which have not been reserved under paragraph (2) or (3) of section 705(a)) shall be available for grants to, and contracts with, local educational agencies in that State which have been established as eligible under section 706(a), to assist such agencies in carrying out the following programs and projects under the comprehensive district wide plan submitted pursuant to section 706(a) as necessary and appropriate to carry out the purposes of this title:

(1) The development and use of new curricula and instructional methods, practices, and techniques (and the acquisition of instructional materials relating thereto) to support a program of instruction for children from all racial, ethnic, and economic backgrounds, including instruction in the language and cultural heritage of minority groups.

(2) Remedial services, beyond those provided under the regular school program conducted by the local educational agency, including student-to-student tutoring.

(3) Guidance and counseling services, beyond those provided under the regular school program conducted by the local educational agency, designed to promote mutual understanding among minority group and nonminority group parents, children, and teachers.

(4) Administrative and auxiliary services to facilitate the success of the project.

(5) Community activities, including public information efforts, in support of a plan, program, project, or other activities described in this section.

(6) Recruiting, hiring, and training of teacher aides: *Provided*, That in recruiting teacher aides, preference shall be given to parents of children attending schools assisted under section 706(a).

(7) Inservice teacher training designed to enhance the success of schools assisted under section 706(a) through contracts with institutions of higher education, or other institutions, agencies, and organizations individually determined by the Commissioner to have special competence for such purpose.

(8) Planning programs and projects under this section, the evaluation of such programs and projects, and dissemination of information with respect to such programs and projects.

(9) Repair or minor remodeling or alteration of existing school facilities (including the acquisition, installation, modernization, or replacement of instructional equipment) and the lease or purchase of mobile classroom units or other mobile education facilities.

In the case of programs and projects involving activities described in paragraph (9), the inclusion of such activities must be found to be a necessary component of, or necessary to facilitate, a program or project involving other activities described in this section or subsection (b), and in no case involve an expenditure in excess of 10 per centum of the amount made available to the applicant to carry out the program or project. The Commissioner shall by regulation define the term "repair or minor remodeling or alteration".

(b) Sums reserved under section 705(a)(2) with respect to any State shall be available for grants to, and contracts with, local educational agencies in that State making application for assistance under section 706(b) to carry out innovative pilot programs and projects which are specifically designed to assist in overcoming the adverse effects of minority group isolation, by improving the educational achievement of children in minority group isolated schools, including only the activities described in paragraphs (1) through (9) of subsection (a), as they may be used to accomplish such purpose.

(c) Sums appropriated as set forth in section 707 shall also be available for grants to, and contracts with, any local educational agencies in such State, to assist such agencies in carrying out programs as may be required or provided for in the court order applicable to such agency referred to in section 706(a)(1)(A)(i)(I).

SPECIAL PROGRAMS AND PROJECTS

SEC. 708. (a)(1) Amounts reserved by the Commissioner pursuant to section 704(b)(2), which are not designated for the purposes of clause (A) or (B) thereof, shall be available to him for grants and contracts under this subsection.

(2) The Commissioner is authorized to make grants to, and contracts with, State and local educational agencies, and other public and private nonprofit agencies and organizations (or a combination of such agencies and organizations) for the purpose of conducting special programs and projects carrying out activities otherwise authorized by this title, which the Commissioner determines will make substantial progress toward achieving the purposes of this title.

(b) From the amounts reserved pursuant to section 705(a)(3), the Commissioner is authorized to make grants to, and contracts with, public and private nonprofit agencies, institutions, and organizations (other than local educational agencies and nonpublic elementary and secondary schools) for programs and projects to promote equality of educational opportunity, through facilitating the participation of parents, students, and teachers in the design and implementation of comprehensive educaticnal planning; the provisions of services which will enable parents to become effective participants in the educational process; the conduct of activities which foster understanding among minority group and nonminority group parents, children, teachers, and school officials, including public information and school-community relations activities; and the conduct of school-related activities to reinforce student growth and achievement.

(c)(1) The Commissioner shall carry out a program to meet the needs of minority group children who are from an environment in which a dominant language is other than English and who, because of language barriers and cultural differences do not have equality of educational opportunity. From the amount reserved pursuant to section 704(b)(2)(B), the Commissioner is authorized to make grants to, and contracts with—

(A) private nonprofit agencies, institutions, and organizations to develop curricula, at the request of one or more educational agencies which are eligible for assistance under section 706, designed to meet the special educational needs of minority group children who are from environments in which a dominant language is other than English, for the development of reading, writing, and speaking skills in the English language and in the language of their parents or grandparents, and to meet the educational needs of such children and their classmates to understand the history and cultural background of the minority groups of which such childern are members;

(B) local educational agencies eligible for assistance under setcion 706 for the purpose of engaging in such activities:

(C) local educational agencies which are eligible to receive assistance under section 706, for the purpose of carrying out activities authorized under section 707(a) of this title to implement curricula developed under clauses (A) and (B) or curricula otherwise developed which the Commissioner determines meets the purposes stated in clause (A).

In making grants and contracts under this paragraph, the Commissioner shall assure that sufficient funds from the amount reserved pursuant to section 704(b)(2)(A) remain available to provide for grants and contracts under clause (C) of this paragraph for implementation of such curricula as the Commissioner determines meet the purposes stated in clause (A) of this paragraph. In making a grant or contract under clause (C) of this paragraph, the Commissioner shall take whatever action is necessary to assure that the implementation plan includes provision adequate to insure training of teachers and other ancillary education personnel.

(2)(A) In order to be eligible for a grant or contract under this subsection—

(i) a local educational agency must establish a program or project committee meeting the requirements of subparagraph (B), which will fully participate in the preparation of the application under this subsection and in the implementation of the program or project and join in submitting such application; and

(ii) a private nonprofit agency, institution, or organization must (I) establish a program or project board of not less than ten members which meets the requirements of subparagraph (B) and which shall exercise policymaking authority with respect to the program or project and (II) have demonstrated to the Commissioner that it has the capacity to obtain the services of adequately trained and qualified staff.

(B) A program or project committee or board, established pursuant to subparagraph (A) must be broadly representative of parents, school officials, teachers, and interested

members of the community or communities to be served, not less than half of the members of which shall be parents and not less than half of the members of which shall be members of the minority group, the educational needs of which the program or project is intended to meet.

(3) All programs or projects assisted under this subsection shall be specifically designed to complement any programs or projects carried out by the local educational agency under section 706. The Commissioner shall insure that programs of Federal financial assistance related to the purposes of this subsection are coordinated and carried out in a manner consistent with the provisions of this subsection, to the extent consistent with other law.

METROPOLITAN AREA PROJECTS

SEC. 709. (a) Sums reserved pursuant to section 704(b)(1) shall be available for the following purposes:

(1) A program of grants to, and contracts with, local educational agencies which are eligible under section 706(a)(2) in order to assist them in establishing and maintaining stable, quality integrated schools. For the purposes of this paragraph, an integrated school shall be a school with an enrollment in which a substantial proportion of the children is from educationally advantaged backgrounds, in which the proportions of minority group children are at least 50 per centum of the proportions of minority group children enrolled in all schools of the local educational agencies within the Standard Metropolitan Statistical Area, and which has a faculty and administrative staff with substantial representation of minority group persons.

(2) A program of grants to groups of local educational agencies located in Standard Metropolitan Statistical Areas, for the joint development of plans to reduce and eliminate minority group isolation, to the maximum extent possible, in the public elementary and secondary schools in Standard Metropolitan Statistical Areas, which shall, as a minimum, provide that by a date certain, but in no event later than July 1, 1983, the percentage of minority group children enrolled in each school in the Standard Metropolitan Statistical Area shall be at least 50 per centum of the percentage of minority children enrolled in all the schools in the Standard Metropolitan Statistical Area.

(3) A program of grants to local educational agencies to pay all or part of the cost of planning and constructing integrated education parks. For the purpose of this paragraph the term "educational park" means a school or cluster of such schools located on a common site, within a Standard Metropolitan Statistical Area, of sufficient size to achieve maximum economy of scale consistent with sound educational practice, providing the full range of pre-school, elementary, and secondary education, with an enrollment in which a substantial proportion of the children is from educationally advantaged backgrounds, and which is representative of the minority group and nonminority group children in attendance at the school of the local educational agencies in the Standard Metropolitan Statistical Area, or, if the applicant is a single local educational agency, representative of that of the local educational agency, and a faculty and administrative staff with substantial representation of minority group persons.

(b) In making grants and contracts under this section, the Commissioner shall insure that—

(1) at least one grant shall be for the purposes of paragraph (2) of subsection (a); and

(2) at least two grants shall be for the purposes of paragraph (3) of subsection (a), of which at least one shall be to assist an education park being planned, established and operated as an interdistrict project involving two or more local educational agencies.

APPLICATIONS

SEC. 710. (a) Any local educational agency desiring to receive assistance under this title for any fiscal year shall submit to the Commissioner an application therefor for that fiscal year at such time, in such form, and containing such information as the Commissioner shall require by regulation. Such application, together with all correspondence and other written materials relating thereto, shall be made readily available to the public by the applicant and by the Commissioner. The Commissioner may approve such an application only if he determines that such application—

(1) in the case of applications under section 706, sets forth a program under which, and such policies and procedures as will assure that, (A) the applicant will use the funds received under this title only for the activities set forth in section 707 and that the applicant will use such funds for the implementation of a comprehensive district-wide plan for the elimination, to the extent possible, of minority group isolation, and that the use of such funds by the applicant will include the implementation of a comprehensive program specifically designed to establish or maintain at least one, or more, stable, quality, integrated schools and, (B) in the case of an application under section 706(b), the applicant will initiate or expand an innovative program specifically designed to meet the educational needs of children attending one or more minority group isolated schools;

(2) has been developed—

(A) in open consultation with parents, teachers, and, where applicable, secondary school students, including public hearings at which such persons have had a full opportunity to understand the program for which assistance is being sought and to offer recommendations thereon, and

(B) except in the case of applications under section 708(c), with the participation and, subject to subsection (b), approval of a committee composed of parents of children participating in the program for which assistance is sought, teachers, and, where applicable, secondary school students, of which at least half the members shall be such parents, and at least half shall be persons from minority groups;

(3) sets forth such policies and procedures as will insure that the program for which assistance is sought will be operated in consultation with, and the involvement of, parents of the children and representatives of the area to be served, including the committee established for the purposes of clause (2)(B);

(4) sets forth such policies and procedures, and contains such information, as will insure that funds paid to the applicant under the application be used solely to pay the additional cost to the applicant in carrying out the plan and program described in the application;

(5) contains such assurances and other information as will insure that the program for which assistance is sought will be administered by the applicant, and that any funds received by the applicant, and any property derived therefrom, will remain under the administration and control of the applicant;

(6) sets forth such policies and procedures, and contains such information, as will insure that funds made available to the applicant (A) under this title will be so used (i) as to supplement and, to the extent practicable, increase the level of funds that would, in the absence of such funds, be made available from non-Federal sources for the purposes of the program for which assistance is sought, and for promoting the integration of the schools of the applicant, and for the education of children participating in such program, and (ii) in no case, as to supplant such funds from non-Federal sources, and (B) under any other law of the United States will, in accordance with standards established by regulation, be used in coordination with such programs to the extent consistent with such other law;

(7) in the case of an application for assistance under section 706, provides that the program or project to be assisted will involve an additional expenditure per pupil to be served, determined in accordance with regulations prescribed by the Commissioner, of sufficient magnitude to provide reasonable assurance that the desired funds under this title will not be dispersed in such a way as to undermine their effectiveness;

(8) to the extent consistent with the number of minority group children in the area to be served who are enrolled in private nonprofit elementary and secondary schools which are operated in a manner free from discrimination on the basis of race, color or national origin, and which do not serve as alternatives for children seeking to avoid attendance in desegregated or integrated public schools, whose participation would assist in achieving the purpose of this title, provides assurance that such agency (after consultation with the appropriate private school officials) has made provision for their participation on an equitable basis;

(9) provides that the applicant has not reduced its fiscal effort for the provision of free public education for children in attendance at the schools of such agency for the fiscal year for which assistance is sought under this title to less than that of the second preceding fiscal year, and that the current expenditure per pupil which such agency makes from revenues derived from its local source for the fiscal year for which assistance under this title will be made available to such agency is not less than such exepnditure per pupil which such agency made from such revenues for (A) the fiscal year preceding the fiscal year during which the implementation of a plan described in section 706(a)(1)(A) was commenced, or (B) the third fiscal year preceding the fiscal year for which such assistance will be made available under this title, whichever is later;

(10) that the State educational agency or agencies governing the school district or school districts in which the approved program or project will be carried out have been given reasonable opportunity to offer recommendations to the applicant and to submit comments to the Commissioner;

(11) sets forth effective procedures, including provisions for objective measurement of change in educational achievement and other ducted under this title, for the continuing evaluation of programs or projects under this title, including their effectiveness in achieving clearly stated program goals, the impact on related programs and upon the community served, and their structure and mechanisms for the delivery of services; and

(12) provides (A) that the applicant will make periodic reports at such time, in such form, and containing such information as the Commissioner shall require by regulation, which regulation shall require at least—

(i) in the case of reports relating to performance, that the reports be consistent with specific criteria related to the program objectives, and

(ii) that the reports include information relating to educational achievement of children in the schools of the applicant,

and (B) that the applicant will keep such records and afford such access thereto as—

(i) will be necessary to assure the correctness of such reports and to verify them, and

(ii) will be necessary to assure the public adequate access to such reports and other written materials.

(b) No application under this section shall be approved which is not accompanied by a

detailed written statement of approval or disapproval by the committee established pursuant to clause (2)(B) of subsection (a), which statement shall be considered by the Commissioner in making his determination, after the committee has been given an appropriate opportunity for an informal hearing, that the local educational agency had sufficient cause to proceed without committee approval, and the Commissioner shall provide a written explanation to the local educational agency and the committee.

(c) The Commissioner shall not approve an application under this section unless he determines that—

(1) the comprehensive districtwide plan submitted pursuant to section 706(a)(1)(B) or 706(a)(3) can be reasonably expected to eliminate minority group isolation, to the maximum extent possible, in all schools of the applicant; and

(2) the funding for establishment or maintenance of the stable, quality integrated schools operated by applicant will be at a sufficient level as to achieve the purpose set forth in section 703(b)(2).

(d) In approving applications under section 706, the Commissioner shall take into consideration (1) the extent to which the applicant will decrease minority group isolation and will prevent minority group isolation, (2) the numbers and proportions of minority group children which the applicant will place in stable, quality integrated schools, and (3) applications which offer the greatest promise of providing quality education for all children participating in the proposed project; and he shall first approve those applications from local educational agencies which place the largest numbers and proportions of minority group children in stable, quality integrated schools.

(e) No State shall reduce the amount of State aid with respect to the provision of free public education in any school district of any local educational agency within such State because of assistance made or to be made available to such agency under this title.

EDUCATIONAL TELEVISION

SEC. 711. (a) The sums reserved pursuant to section 704(b)(2)(B) for the purpose of carrying out this section shall be available for grants and contracts in accordance with subsection (b).

(b)(1) The Commissioner shall carry out a program of making grants to, or contracts with, not more than ten public or private nonprofit agencies, institutions, or organizations with the capability of providing expertise in the development of television programing, in sufficient number to assure diversity, to pay the cost of development and production of integrated children's television programs of cognitive and effective educational value.

(2) Television programs developed in whole or in part with assistance provided under this title shall be made reasonably available for transmission, free of charge, and shall not be transmitted under commercial sponsorship.

(3) The Commissioner may approve an application under this section only if he determines that the applicant—

(A) will employ members of minority groups in responsible positions in development, production, and administrative staffs;

(B) will use modern television techniques of research and production; and

(C) has adopted effective procedures for evaluating education and other change achieved by children viewing the program.

DEFINITIONS

SEC. 712. Except as otherwise specified, the following definitions shall apply to the terms used in this title:

(1) The term "Commissioner" means the Commissioner of Education; and the term "Secretary" means the Secretary of Health, Education, and Welfare.

(2) The term "current expenditure per pupil" for a local educational agency means (1) the expenditures for free public education, including expenditures for administration, instruction, attendance, and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities, but not including expenditures for community services, capital outlay, and debt service, or any expenditures made from any Federal funds paid to the agency, divided by (2) the number of children in average daily attendance to whom such agency provided free public education during the year for which the computation is made.

(3) The term "elementary school" means a day or residential school which provides elementary education, as determined under State law.

(4) The term "equipment" includes machinery, utilities and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the provision of educational services, such as instructional equipment and necessary furniture, printed, published, and audiovisual instructional materials, and other related material.

(5) The term "institution of higher education" means an educational institution in any State which—

(A) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(B) is legally authorized within such State to provide a program of education beyond high school;

(C) provides an educational program for which it awards a bachelor's degree; or provides not less than a two-year program which is acceptable for full credit toward such a degree, or offers a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge;

(D) is a public or other nonprofit institution; and

(E) is accredited by a nationally recognized accrediting agency or association listed by the Commissioner for the purposes of this paragraph.

(6) The term "integrated school" means a school with an enrollment in which a substantial proportion of the children are from educationally advantaged backgrounds, and which is substantially representative of the minority group and nonminority group enrollment of the local educational agency in which it is located, and a faculty which is representative of the minority group and nonminority group population of the larger community in which it is located, or whenever the Commissioner determines that the local educational agency concerned is attempting to increase the proportions of minority group teachers, supervisors, and administrators in its employ, a faculty which is representative of the minority group and nonminority group faculty employed by the local educational agency.

(7) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or a federally recognized Indian reservation, or such combination of school districts, or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools, or a combination of local educational agencies; and includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(8)(A) The term "minority group" refers to (i) persons who are Negro, American Indian, Spanish-surnamed American, Portuguese, or Oriental; and (ii) (except for the purposes of section 705), as determined by the Secretary, persons who are from environments in which a dominant language is other than English and who, as a result of language barriers and cultural differences, do not have an equal educational opportunity, and (B) the term "Spanish-surnamed American" includes persons of Mexican, Puerto Rican, Cuban, or Spanish origin or ancestry.

(9) The terms "minority group isolated school" and "minority group isolation" in reference to a school mean a school and condition, respectively, in which minority group children constitute more than 50 per centum of the enrollment of a school.

(10) The term "nonprofit" as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(11) The term "secondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

(12) The term "Standard Metropolitan Statistical Area" means the area in and around a city of fifty thousand inhabitants or more as defined by the Office of Management and Budget.

(13) The term "State" means one of the fifty States or the District of Columbia.

(14) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law for this purpose.

EVALUATIONS

SEC. 713. The Commissioner is authorized to reserve net in excess of 1 per centum of the sums appropriated under this title for any fiscal year for the purposes of this section. From such reservation, the Commissioner is authorized to make grants to, and contracts with, State educational agencies, institutions of higher education and private organizations, institutions, and agencies, including committees established pursuant to section 710(a)(2) for the purpose of evaluating specific programs and projects assisted under this title.

REPORTS

SEC. 714. The Commissioner shall make periodic detailed reports concerning his activities in connection with the program authorized by this title and the program carried out with appropriations under the paragraph headed "Emergency School Assistance" in the Office of Education Appropriations Act, 1971 (Public Law 91-380), and the effectiveness of programs and projects assisted under this title in achieving the purposes of this title. Such reports shall contain such information as may be necessary to permit adequate evaluation of the programs authorized by this title, and shall be submitted to the President and to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives. The first report submitted pursuant to this section shall be submitted no later than ninety days after the enactment of this title. Subsequent reports shall be submitted no less often than four times annually.

JOINT FUNDING

SEC. 715. Pursuant to regulations prescribed by the President, where funds are advanced

by the Office of Education, and one or more other Federal agencies for any project or activity funded in whole or in part under this title, any one of such Federal agencies may be designated to act for all in administering the funds advanced. In such cases, any such agency may waive any technical grant or contract requirement (as defined by regulations) which is inconsistent with the similar requirements of the administering agency or which the administering agency does not impose. Nothing in this section shall be construed to authorize (1) the use of any funds appropriated under this title for any purpose not authorized herein, (2) a variance of any reservation or apportionment under section 704 or 705, or (3) waiver of any requirement set forth in sections 706, 707, 708, 709, 711, and 712(6).

NATIONAL ADVISORY COUNCIL

SEC. 716. (a) There is hereby established a National Advisory Council on Equality of Educational Opportunity, consisting of fifteen members, at least one-half of whom shall be representative of minority groups, appointed by the President, which shall—

(1) advise the Secretary with respect to the operation of the program authorized by this title, including the preparation of regulations and the development of criteria for the approval of applications;

(2) review the operation of the program (A) with respect to its effectiveness in achieving its purposes as stated in section 703, and (B) with respect to the Commissioner's conduct in the administration of the program;

(3) meet not less than four times in the period during which the program is authorized, and submit through the Secretary, to the Congress at least two interim reports, which reports shall include a statement of its activities and of any recommendations it may have with respect to the operation of the program; and

(4) not later than December 1, 1973, submit to the Congress a final report on the operation of the program.

(b) The Commissioner shall submit an estimate under the authority of section 401 (c) and part C of the General Education Provisions Act to the Congress for the appropriations necessary for the Council created by subsection (a) to carry out its functions.

ATTORNEY FEES

SEC. 717. Upon the entry of a final order by a court of the United States against a local educational agency, a State (or any agency thereof), or the United States (or any agency thereof), for failure to comply with any provision of this title or for discrimination on the basis of race, color, or national origin in violation of title VI of the Civil Rights Act of 1964, or the fourteenth amendment to the Constitution of the United States as they pertain to elementary and secondary education, the court, in its discretion, upon a finding that the proceedings were necessary to bring about compliance, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.

TITLE VIII—FOREIGN SERVICE SCHOLARSHIP PROGRAM

SEC. 801. (a) This title may be cited as the "United States Foreign Service Scholarship Program Act."

(b) The Higher Education Act of 1965 is amended (1) by redesignating title XII and sections 1201, 1202, 1204, and 1205, and all references thereto, as title XIII and sections 1301, 1302, 1303, and 1304, respectively, and (2) by inserting after title XI a new title as follows:

"TITLE XII—UNITED STATES FOREIGN SERVICE SCHOLARSHIP PROGRAM

"ESTABLISHMENT OF SCHOLARSHIP PROGRAM

"SEC. 1201. The Congress recognizes that the world and the universe are growing smaller in terms of time and space which necessitates now, and will demand in the future, constant informed contact, knowledge, and understanding among all the peoples of the world in diplomatic, cultural, and commercial exchanges. The success of these exchanges and the survival of the world may depend upon the ability, education, training, and intelligence of the men and women charged with responsibilities relating to the foreign affairs of the United States. To assure that there is adequate opportunity for the young men and women of the United States to enter this vast field with the best possible training of their natural abilities and to advance the professional education and training of the officers and employees of the Government currently engaged in the field of foreign affairs, there is hereby established, as provided in the succeeding provisions of this title, a United States Foreign Services Scholarship Program (hereinafter referred to as the 'Program'). The members of the Program shall be all students admitted to the Program under section 1205, and all officers and employees of the Government admitted to the Program under section 1207, who are enrolled in a program of education, training, or research, or a course of study, approved by the Board under section 1204.

"DEFINITIONS

"SEC. 1202. As used in this title—

"(a) 'Government' means the Government of the United States;

"(b) 'non-Federal institution of higher education' means an institution of higher education which is not owned or substantially controlled by the Government of the United States;

"(c) 'Board' means the Board of Trustees of the Program;

"(d) 'department or agency' means an executive department, a military department, an independent establishment, or a Government corporation as specified in chapter 1 of title 5, United States Code;

"(e) 'training month' means any month during which a member of the Program admitted under section 1205 is taking at least the minimum level of credit hours in a full-time course of study prescribed by the Board, or is taking field training as assigned by the Board; and

"(f) 'dependent', when used in relation to a dependent of a member of the Program admitted under section 1205, means an individual who qualifies as a dependent of such member under section 152 of the Internal Revenue Code of 1954, as amended.

"BOARD OF TRUSTEES

"SEC. 1203. (a) The management and supervision of the Program shall be vested in a Board of Trustees. The Board shall develop and support, as provided hereinafter, programs of education, training, and research in the field of foreign affairs, designed to prepare, or advance the qualifications of, members of the Program for service with the United States in positions or programs related to such field.

"(b) The Board shall consist of the Secretary of State, four persons experienced in higher education or training and education in foreign affairs, to be appointed by the President, two members of the United States Senate to be appointed by the Vice President, and two members of the House of Representatives to be appointed by the Speaker of the House of Representatives. Not more than one of the trustees appointed from the Senate nor one of the trustees appointed from the House of Representatives shall be of the same political party.

"(c)(1) The term of each member of the Board appointed from the Senate and the House of Representatives shall be two years.

"(2) The term of each member of the Board appointed by the President shall be four years; except that of the first four persons appointed by the President two shall be designated to serve for two years and two shall be designated to serve for four years.

"(3) Members of the Board shall be eligible for reappointment.

"(d) Vacancies created by death or resignation shall be filled in the same manner in which the original appointment was made, except that the person appointed to fill the vacancy shall be appointed only for the unexpired term of the trustee whom he shall succeed.

"(e) Members of the Board shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

"ESTABLISHMENT OF SCHOLARSHIP PROGRAMS

"SEC. 1204. (a) In order to carry out the purposes of this title, the Board is authorized and directed to make arrangements with non-Federal institutions of higher education providing for the admission of qualified members of the Program to such institutions for their enrollment in programs operated by and at such institutions which are designed to—

"(1) enable qualified students who are admitted to the Program pursuant to section 1205 to pursue full-time courses of study relating to the field of foreign affairs and leading to the granting of an undergraduate or graduate degree;

"(2) enable qualified officers and employees of the Government having duties or responsibilities in the field of foreign affairs who are admitted to the Program pursuant to section 1207 to pursue, on a voluntary basis and on such terms and conditions as the Board may prescribe, professional education, training, and research activities relating to the field of foreign affairs, including selected subjects from a general curriculum, or to pursue full-time courses of study relating to the field of foreign affairs and leading to an undergraduate or graduate degree; and

"(3) enable selected members of the Program to engage in research activities approved by the Board relating to the field of foreign affairs.

In addition, such arrangements shall provide for a program of appropriate orientation and language training by and at such institutions for members of the families of persons admitted to the Program or of officers and employees of the Government who are not members of the Program, but have duties or responsibilities in the field of foreign affairs, in anticipation of, or on account of, the assignment of such members of the Program or officers or employees of the Government to a foreign country or area.

"(b) In carrying out its functions under subsection (a), the Board shall not enter into any arrangement with a non-Federal institution of higher education unless such arrangement provides that such institution will offer to members of the Program, as a part of its curriculum, courses of study or activities of education, training, or research in the field of foreign affairs sufficient to prepare, or advance the qualifications of, members of the Program for service with the United States in positions or programs related to the field of foreign affairs.

"(c) The Board shall, pursuant to guidelines established after consultation with departments and agencies of the Government concerned with future personnel needs in the field of foreign affairs, determine the number of persons who may receive instructions and training under the Program. Not more than three thousand five hundred students may be admitted under section 1205 as new members of the Program in any academic year for the purpose of pursuing courses of study leading to an undergraduate degree, and not more than fifteen hundred students may be admitted under section 1205 as new members of the Program in any academic year for the purpose of pursuing courses of study leading to a graduate degree.

"NOMINATION AND ADMISSION OF STUDENTS INTO PROGRAM

"SEC. 1205. (a) The Board shall provide for the holding of annual competitive undergraduate and graduate examinations to determine the admission of applicants into the Program from among students who are nominated pursuant to subsection (c). Such examinations shall test the intellectual capacities and training of the applicant and his aptitude for service in the field of foreign affairs. The Board shall develop such examinations in consultation with non-Federal institutions of higher education with which it has made arrangements under section 1204.

"(b) Applicants for the annual undergraduate examination held by the Board shall be citizens of the United States who are graduate of, or attending, a public secondary school in, or any private secondary school accredited by, a State, or a public or private secondary school in a foreign country which in the judgment of the Board provides an educational program for which it awards a certificate of graduation generally accepted as constituting the equivalent of that awarded by secondary schools accredited by a State. Applicants for the annual graduate examination held by the Board shall be citizens of the United States who are graduates of, or attending, an institution of higher education in the United States or of an institution of higher education in a foreign country which provides an educational program for which it awards a degree which in the judgment of the Board is generally accepted as constituting the equivalent of a bachelor's degree awarded by similar institutions in the United States. No applicant shall be eligible to take any such examination unless he has first been nominated pursuant to subsection (c).

"(c)(1) A total of eight thousand four hundred and twenty-four applicants shall be nominated each year to take the annual competitive examinations held by the Board as follows:

"(A) two hundred and twenty from the United States at large as follows:

"(i) one hundred nominated by the President,

"(ii) sixty-six nominated by the Vice President, and

"(iii) fifty-four nominated by the Secretary of State;

"(B) thirty from each State, fifteen nominated by each Senator from the State;

"(C) fifteen from each congressional district, nominated by the Representative from the district;

"(D) three from each State nominated by the Governor of the State;

"(E) seven from the Commonwealth of Puerto Rico, nominated by the Resident Commissioner from Puerto Rico;

"(F) ten from the District of Columbia, nominated by the Commissioner of the District of Columbia;

"(G) three from the Virgin Islands, nominated by the Governor of the Virgin Islands;

"(H) three from American Samoa, nominated by the Governor of American Samoa;

"(I) three from Guam, nominated by the Governor of Guam; and

"(J) three from the Canal Zone, nominated by the Governor of the Canal Zone.

"(2) No person may be nominated under clauses (B) through (I), inclusive, or paragraph (1) unless such person is domiciled in the State, or in the congressional district, from which such person is nominated, or in the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, or Guam if nominated from one of those places. To be eligible for nomination by the Governor of the Canal Zone, a person must be a resident of the Canal Zone, or a member of the family of a resident of the Canal Zone, or a member of the family of a civilian officer or employee of the United States or the Panama Canal Company residing in the Republic of Panama

"(3) After the initial three years of operation of the Program, if the Board determines that the total number of applicants who will be qualified and admitted as new members in the Program prior to the beginning of any academic year under this section for the purpose of pursuing courses of study during such academic year leading to undergraduate or graduate degrees, respectively, will be below the total number of applicants who may be so admitted to the Program in accordance with section 1204(c), the Board may nominate to take a competitive examination held prior to such academic year, and select for admission to the Program, in the order of merit established by such examination, such additional number of eligible applicants as the Board finds will be necessary to meet the needs of the Program in such academic year and will not exceed the limitations set forth in section 1204(c).

"(d) Applicants under this section shall be selected for membership in the Program in the order of merit established by the annual examinations held by the Board pursuant to this section, but no person shall be eligible for admission as a member of the Program unless he is a graduate of a public or private secondary school described in subsection (b) in the case of a student intending to pursue a course of study leading to an undergraduate degree or a graduate of an institution of higher education described in subsection (b) in the case of a student intending to pursue a course of study leading to a graduate degree.

"(e) Except as provided in this section, no competitive or other similar examination shall be required for admission of any person as a member of the Program under this section.

"COMPENSATION AND REPAYMENT OF EXPENSES AND SUBSISTENCE FOR STUDENT MEMBERS

"SEC. 1206. (a) Members of the Program who are admitted under section 1205 and are maintaining satisfactory progress in, and taking at least the minimum level of credit hours in, full-time courses of study as prescribed by the Board shall be compensated for tuition, texts, laboratory fees and associated course materials, and shall receive subsistence payments as provided in this section. No compensation or payments shall be made except in accordance with procedures established by the Board to assure their accuracy and appropriateness.

"(b) The subsistence payments which shall be payable under this section area as follows:

"(1) A single student member shall receive $200 subsistence pay per training month.

"(2) A married student member having a dependent spouse shall receive $250 subsistence pay per training month, and if they have a dependent child or children and additional allowance of $30 for each dependent child shall be paid per training month.

"(3) Where both a husband and wife member are students under the Program, their joint subsistence pay shall be $300 per training month, and if they have a dependent child or children an additional allowance of $30 for each dependent child shall be paid per training month.

"(4) Where both a husband and a wife member are students under the Program and are legally separated they each shall receive the same subsistence pay per training month as would a single student, but if either spouse has a dependent child or children an additional allowance of $30 per training month shall be paid to the entitled spouse for each dependent child.

"(5) Student members shall be granted an additional allowance of $30 per training month for each dependent not a spouse or a child of such student member.

"ADMISSION OF GOVERNMENT OFFICERS AND EMPLOYEES INTO THE PROGRAM; EXPENSES AND COMPENSATION

"SEC. 1207. (a) The head of each Government department or agency is authorized (1) to select officers and employees of such department or agency who may volunteer to be admitted to the Program to pursue education, training, or research or a course of study within the Program, (2) to pay all or any part of the pay (except overtime, holiday, or night differential pay) of any such officer or employee so selected for the period of such education, training or research, or course of study, as a member of the Program, and (3) to pay or reimburse such officer or employee for all or part of the necessary expenses of such education, training, or research, or course of study, without regard to section 529 of title 31, United States Code, including the necessary costs of (A) the travel expenses of such officer or employee and the transportation expenses of his immediate family, (B) the expenses of packing, crating, transporting, and temporarily storing, draying, and unpacking his household goods and personal effects to the extent authorized by section 5724 of title 5, United States Code, (C) purchase or rental of books, materials, and supplies, and (D) all other services for facilities directly related to the education, training, or research, or course of study of such officer or employee within the Program. The head of each Government department or agency shall prescribe, with the approval of the Board, limitations concerning the number of officers and employees of such department or agency who may be selected for admission to the Program at the same time and the period of time which may be spent by such officers and employees in study, training, or research, or a course of study within the Program. The provisions of section 1206 shall not apply to any Government officers or employees admitted to the Program under this section.

"(b) Appropriations made available to any Government department or agency or the payment of salaries and expenses of officers and employees of such department or agency shall be available for making payments under this section to members of the Program selected from such department or agency.

"(c) During any period for which any Government officer or employee who is admitted to the Program under this section is separated from his usual duties of employment with any Government department or agency for the purpose of education, training, or research or a course of study within the Program, such officer or employee shall be considered to have performed service, as an officer or employee of such department or agency at the rate of compensation received immediately prior to commencing such education, training, or research or course of study (including any increase in compensation provided by law during the period of such activity) for the purposes of (1) retirement pensions including when applicable civil service retirement pensions as provided in subchapter III of chapter 83 of title 5, United States Code, (2) life insurance including when applicable Federal employees group life insurance as provided in chapter 87 of title 5, United States Code, and (3) health insurance including when applicable Federal employees group health insurance as provided in chapter 89 of title 5, United States Code.

"(d) Each Government officer or employee who is admitted to the Program under this section shall, on completion of the period of education, training, or research or a course of study within the Program, be entitled to continue service in his former position or a position of at least like seniority and status

in the department or agency from which he was selected for such education, training, or research or course of study and shall be entitled to at least the rate of basic pay to which he would have been entitled had he continued in his usual service with such department or agency. On resumption of his usual duties with such department or agency, the department or agency shall restore such officer's or employee's sick leave account, by credit or charge, to its status at the time he commenced education, training, or research or a course of study within the Program.

"AGREEMENT TO ENTER INTO OR CONTINUE GOVERNMENT SERVICE AFTER COMPLETING THE SCHOLARSHIP PROGRAM

"SEC. 1208. The Board shall obtain from each person admitted to the Program, other than members of a family receiving orientation or language training under section 1204(a), such agreement as the Board may deem necessary to assure that such person will accept employment with the United States, unless already so employed, and will remain in the employ of the United States, wherever assigned by the employing department or agency, for such period after completion of their education, training, research, or course of study within the Program as is prescribed by (1) the Board in the case of students admitted to the Program under section 1205, or (2) the head of the employing department or agency in the case of Government officers and employees selected for admission to the Program from such department or agency under section 1207.

"ASSIGNMENT OF STUDENT MEMBERS FOR FIELD TRAINING AND GOVERNMENT SERVICE

"SEC. 1909. (a) During the course of study leading to an undergraduate or graduate degree, each student admitted to the Program under section 1205 may be assigned at the discretion of the Board for field training with any program of the Government relating to the field of foreign relations conducted by any department or agency of the Government. The period of field training assignment for a member of the Program under this subsection may not exceed two consecutive months in any calendar year during the first three years of undergraduate study, nor more than six consecutive months during the fourth year of undergraduate study or any academic year of graduate study.

"(b) Except as otherwise provided by any law of the United States or regulation prescribed by the Board, each student admitted to the Program under section 1205 shall, upon satisfactory completion of his course of study leading to an undergraduate or graduate degree, or within such period of time thereafter as the Board finds to be reasonable to prepare and submit any thesis or dissertation related to his course of study, be available for assignment in the discretion of and by the Board (1) for hiring or appointment by the United States in connection with any program of the Government relating to the field of foreign affairs conducted by any department or agency of the Government, or (2) if such member has completed a course of study leading to a graduate degree, for one year of specialized study in a particular foreign country or area in which he may later be assigned for Government service.

"(c) Prior to making any assignments under this section, the Board shall consult with interested departments and agencies of the Government to determine the personnel requirements of their programs relating to the field of foreign affairs. To the extent practicable, members of the Program shall be assigned in accordance with their preferences for a particular Government program.

"ROTATION FOR SERVICE IN THE UNITED STATES

"SEC. 1210. All members of the Program who have satisfactorily completed their education, training, or research, or course of study within the Program and are employed by, or remain in the employment of, the United States under this title shall be assigned to Government duties within the United States for a minimum of one year during every five that they are employed in any Government program in the field of foreign affairs; except that the provisions of this subsection may be waived when the United States is at war as declared by Congress.

"STAFF OF BOARD

"SEC. 1211. (a) The Board may appoint and fix the compensation of a staff consisting of not more than five professional staff members and such clerical staff members as may be necessary. Such appointments shall be made and such compensation shall be fixed in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(b) The Board may designate one member from the professional staff who shall serve as the chief staff officer of the Board and shall exercise, under the supervision and in accordance with the policies of the Board, such of the powers and duties granted to the Board as it deems appropriate.

"(c) The Board may procure such temporary and intermittent services as are authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals.

"ACQUISITION OF REAL OR PERSONAL PROPERTY BY BOARD

"SEC. 1212. The Board shall have the power to acquire and hold property, real or personal, and to receive and accept money or other property, real or personal, bequeathed, devised, or donated, and to use, sell, or otherwise dispose of such property for the purpose of carrying out this title.

"PROHIBITION AGAINST ESTABLISHMENT OF ACADEMY

"SEC. 1213. Nothing in this title shall be construed to authorize the Board to establish any educational institution or to appoint or hire any person to serve on the faculty or staff of any educational institution.

"AUTHORIZATION

"SEC. 1214. There are hereby authorized to be appropriated to the Board to carry out the purposes of this title (other than section 1207), $15,000,000 for the fiscal year ending June 30, 1973; $30,000,000 for the fiscal year ending June 30, 1974; $45,000,000 for the fiscal year ending June 30, 1975; and $60,000,000 for the fiscal year ending June 30, 1976".

TITLE IX—GENERAL PROVISION

ASSIGNMENT OR TRANSPORTATION TO OVERCOME RACIAL IMBALANCE

SEC. 901. No provision of this Act shall be construed to require the assignment or transportation of students or teachers in order to overcome racial imbalance.

Mr. PELL. Mr. President, it is my belief that a long discussion of this measure will not be necessary at this point. S. 659 is a conglomerate of pieces of legislation previously acted upon by the Committee on Labor and Public Welfare and in certain cases by the Senate.

Titles I, II, III, V, and VI are identical, except for technical and clerical corrections, to titles I, II, III, IV, and V of S. 659, the Education Amendments of 1971, as passed by the Senate, August 6, 1971—51 yeas, 0 nays.

Title IV is identical, except for conforming changes, with S. 2482, the Indian Education Act, which passed the Senate on October 8, 1971—57 yeas, 0 nays.

Title VII is identical, except for conforming changes, with S. 1557, the Emergency School Aid and Quality Integrated Education Act, which passed the Senate on April 26, 1971—74 yeas, 8 nays.

Title VIII contains provisions which are comparable with those contained in S. 390, the U.S. Foreign Service Scholarship Program Act, on which the Committee on Foreign Affairs and the Committee on Labor and Public Welfare have reported—Senate Reports No. 92–104 and 92–236; Calendar No. 229.

Title IX contains language designed to clarify Federal education law with respect to the assignment and transportation of students and teachers in order to overcome racial imbalance.

By way of background, S. 659, the Education Amendments of 1971, was passed by the Senate on August 6, 1971. The House of Representatives considered and passed a comparable measure—H.R. 7248—the Higher Education Act of 1971, on November 4, 1971, having amended the bill to include language comparable with S. 1557, the Emergency School Aid and Quality Integrated Education Act—which had separately passed the Senate April 26, 1971. S. 659 was then taken up by the House of Representatives and, after substituting the language of H.R. 7248 as so amended, the House passed the act of the Senate. On November 8, 1971, the House insisted on its amendment to S. 659 and asked for a conference.

On November 24, 1971, the Senate, by unanimous consent, referred the message of the House of Representatives on S. 659 to the Committee on Labor and Public Welfare.

The committee met in executive session on December 3, 1971, and considered the message of the House, together with amendments to S. 659 which had been printed and referred to the committee. The committee recommends that the Senate agree to the amendment of the House of Representatives with a substitute amendment.

In the light of several House amendments pertaining to the transportation of students, the committee discussed at length the use of Federal funds for transportation. The subject matter was approached from the standpoint of transportation as an educational tool under present law and under the proposed Senate language.

Under present law, Federal funds may be used for transportation services per se, with no relationship to other parts of a fundable program or project, only under the impacted areas program—Public Law 874, 81st Congress. In addition, Federal funds may be used for transportation services if these services are needed to carry out a fundable project under titles I—special projects for educationally deprived children—title III—supplementary centers and services—and title VII—bilingual education—of the Elementary and Secondary Education Act of 1965, and also under the Education of the Handicapped Act. The committee found, insofar as it was possible to de-

termine, that the only Federal funds which could be used for transportation solely to alter the racial composition of the enrollment of schools are the funds I mentioned above available under the impacted areas program, and then only because Federal funds are comingled with State and local funds in this program. And, the Federal funds cannot be used unless the local educational agency decides to use its own pool of funds for transportation.

The committee believes that, to the extent consistent with law, the question of transportation should be decided at the local level. Its recommendation, in order to clarify Federal policy on this subject, would be the inclusion of the following provision:

No provision of this Act shall be construed to require the assignment or transportation of students or teachers in order to overcome racial imbalance.

The proposed Senate desegregation language would provide financial support for school desegregation—including, where necessary, transportation services—undertaken pursuant to desegregation plans under a Federal court order, the Civil Rights Act of 1964, State law or court orders, or a voluntary plan initiated by the local educational agency. Transportation to achieve desegregation has been undertaken in the communities of our Nation, often as a matter of wholly voluntary local education policy, and sometimes under Federal court or administrative order to remedy unconstitutional discrimination, or under State law. Though title VII does not require the transportation of students, funds under title VII could be used at the request of local school officials to assist in paying the cost of desegregation-related transportation.

The committee is of the firm opinion that a prohibition against Federal assistance to meet the cost of desegregation-related transportation if requested by local school authorities would result in additional taxes at the local level, or cutbacks in vital education services.

In summary, the only provisions not heretofore considered by this body in the pending measure are those dealing with the Foreign Service scholarship program, which was favorably reported by both the Labor and Public Welfare and the Foreign Relations Committees, and the language relating to transportation, which I have just discussed. During the executive session of the committee, amendments were offered which dealt with other facets of Federal education law. The committee did not discuss the merits of these amendments. It was decided that no new amendments would be taken before the Senate, as we wished to limit floor action to consideration of previously acted-upon legislative proposals and the transportation question. All other new matters, no matter how meritorious, were put aside.

I urge the Senate to concur in the recommendation of the committee, and act promptly on this omnibus measure which provides needed funds to so many segments of this Nation's entire educational system.

Mr. President, in closing I would like to say that this education bill is really one of the major pieces of legislation to be considered by this Congress. The Carnegie Commission on Education has characterized the higher education bill as the most important piece of legislation to be put before the country since the passage of the Morrill Land Grant Act of 1862.

I would hope that we would not lose sight of the deep foundation of this legislation as we discuss the question of busing which is extraneous to the higher education bill. The higher education bill and the emergency school aid program were amalgamated by the House of Representatives, an action regretted by many Members there and deeply regretted by me. It is for that reason that the busing amendments are being offered with respect to this bill.

Mr. GRIFFIN. Mr. President, the distinguished senior Senator from New York (Mr. JAVITS), the ranking minority member of the committee, would like to make a few remarks. Pending his arrival, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, the pending measure, though not by any means the largest in sums of money which are available, is in my judgment one of the most important which the Congress will have to consider in this Congress, let alone in this session, because there are a number of grave questions in this field. I will refer to a few of them.

What about the capabilities of our educational system to meet modern demands? Must people who are meritorious and deserving be denied the opportunity to have a higher college education for economic reasons?

We go a long way to deal with this problem. However, we have not by any means gone far enough. Approximately 40 percent of our high school graduates who are capable of attaining a college education get it. That still leaves 60 percent. That is a long way from home, with its residual risk which is probably as great. What about college education in terms of the progress of the country?

Will we have to give a college education to people based upon the kind of education they can get and not have enough trained and vocationally educated trained people? We are learning that there is great dignity in training in the quasi-professions which individuals can qualify for in the American industrial and economic fields. There will be a need for infinitely more quasi-professionals than ever before. It is estimated that in this decade not less than 25 percent of all workers will have to be professionally trained for that purpose.

All of this raises a big question about having a surplus age of young people educated in the humanities and real deficiencies in the major aspects of structural education. For example, most people think we are overloaded with engineers. However, we are only overloaded with engineers out of the aerospace and defense industries.

We are very short of engineers in the computer field and other fields, where jobs are going begging precisely because we have had this inadequacy in relating the supply to the demand.

Mr. President, the adjudication of responsibility between the Federal Government and the States in this area is critically important. The States are very hungry for Federal help in the educational field but are extremely sensitive to any measure of Federal control or the imposition of Federal ideas. It is a great challenge to the Federal concept of our Constitution. The unraveling of those provisions is critically important.

Finally, there is the matter of incentives. There never can be created incentives by which a very great effort can be made by States and even local units of government, for the dead hand of the absolute depends on what will come from the Federal Government controlling systems of education, notwithstanding that the Federal Government cannot hope to afford more than a minority share in their sustenance and support.

In all those respects I believe a magnificient bill has been fashioned. It is regrettable that we should be diverted in terms of the basic purpose and grand design of this bill by the busing controversy, but hopefully, with the agreement which has not been arrived at, the Senate will be able to manifest its will on the busing issue with reasonableness and move to the consideration of the different titles of the bill with a view of enacting the best legislation of which the Senate is capable to take to conference with the other body.

I believe we have made in a critical area of American education and American life an auspicious beginning today by the joint agreement of Members of the Senate of very diverse views; they were united on one proposition and that is that the law is essential, that higher education is of the greatest need, and we turn now to fashion that law without delay and in such time that it would have to become law in this session of Congress.

I think this is a most constructive step forward, and all who participated are entitled to the very highest credit.

I express my satisfaction to the chairman of the subcommittee (Mr. PELL) and I pay tribute to the nobility of his effort and to the skill he has brought to the bill to the point where a bill will be passed by the Senate. I know perhaps better than anyone else of his decisive contribution of the various matters before us and the highly constructive legislation for the education of the young people of our country.

Mr. PELL. I thank the Senator very much for his words. To have worked with him as a team has been very good. This bill has been reported with a minimum of partisanship, and working together we have a bill of which we are very proud.

It could not have been done without that cooperation.

AMENDMENT NO. 912

AN ALTERNATIVE TO PANIC

Mr. RIBICOFF. Mr. President, the Senate is about to begin an historic debate that will go far toward determining the future course of this country. The headlines all focus on busing but the issue before us is not busing—it is not even integrated education. The gut issue facing our country and its leaders today is whether we will continue our commitment to a unified society where race is an irrelevant factor or whether we will allow the drift toward apartheid to become a movement sanctioned by our Government.

Never has it been more important for us to articulate our principles clearly and stand by them in the face of panic. Unfortunately, in the rush of politicians stumbling over each other to oppose busing, the drive for racial equality has lost out.

Eighteen years after the Supreme Court's decision in Brown v. Board of Education, the discredited doctrine of separate but equal has begun to rear its head. Now liberals as well as conservatives are talking about insuring equal educational opportunities and quality education. Freedom of choice amendments are being considered by northerners as well as southerners.

Developing a society that no longer relegates one racial group to the least and worst of everything is not easy. It will take time, and all the intelligence and good will at our disposal. But this does not make the cause any less just nor its completion any less urgent.

I have been dismayed by the developments of the last year. The arguments we rejected for years when raised by Southerners are now embraced by liberals throughout the North. After years of Presidential leadership on civil rights, we have an administration anxious and willing to abdicate its constitutional responsibilities by appealing to the worst fears and stereotypes rather than trying to eliminate them. After years of forcing the issue onto the courts, the Congress of the United States seems more determined than ever to hide behind a few courageous men in judicial robes.

The distinguished Senator from Minnesota (Senator MONDALE) correctly noted last week that busing is not being ordered willy-nilly by courts around the country. The number of children in the South where most court-ordered integration is occurring riding buses is 3 percent above the national average. Nationally, 65 percent of our school children ride buses to school every day for reasons unrelated to integration.

Revealing the lack of substance to fears about busing is not enough, however. We must also begin to fashion solutions for the increasing racial separation occurring throughout this country, in the North as well as the South. Even if we successfully oppose the antibusing amendments confronting us, we will have done nothing to alleviate the underlying problem.

The need now is not for more rhetoric or political posturing. The need now is for a serious legislative initiative to solve the greatest issue we face. The lack of any initiative to unite our society by the President, the Congress, and even integration's supporters is only a confession of our intellectual and moral bankruptcy on this issue.

If we are not to betray the years of effort and the lives that have been given to the struggle for racial equality in this country, we have an obligation to confront the problem of segregation squarely and to develop solutions commensurate with the conditions we face.

Some are talking now of compromises on the question of busing, perhaps resulting in an amendment introduced by liberals that would appear to be against busing, without really ending it. Senators will therefore be able to vote against busing without, hopefully, destroying our efforts to end segregation. This may be fine for our consciences and may allow us to appear to be all things to all people, but it hardly qualifies as constructive leadership. Nor does it do anything to dissipate the fog resulting from the irresponsible dialog surrounding the entire question of busing and school integration. At a time when our future is threatened and people are seeking leadership and guidance, fancy legislative footwork without more is not enough.

To solve the problem of racial isolation in this country, we are going to have to recognize several principles. First and foremost, we can no longer assume that the problem is confined geographically to the South or that programs to integrate education by itself will ever succeed. Our schools are segregated in the North as well as the South because our society is segregated. The question of widespread busing arises only in the context of separate societies we attempt to bridge by sending children on missions of integration. If we truly integrated our neighborhoods, there would be no reason to bus any child.

Since I first raised this point 2 years ago, the figures have only become more ominous. That this is a truly national problem is shown by HEW statistics just released revealing that 43.9 percent of black students in the South now attend majority white schools while only 27.8 percent do in the North and West.

This past year for the first time, the number and percentage of blacks in 100 percent minority schools in the South were lower than the number and percentage in the schools in the North.

The 1970 census validated the warnings that our country—North and South—is dividing into increasingly black central cities and white suburbs. In the last 10 years central cities lost 2½ million whites and gained 3 million blacks. At the same time, suburbs in the 66 largest metropolitan areas gained 12.5 million whites and only 800,000 blacks. The suburbs generally are 95 percent or more white while the cities become blacker and blacker each year. And still we talk the same game: integration only for the South, only in the central cities, and only in our schools.

We must also recognize that waiting for the courts to solve our problems for us will only lead to greater chaos. The courts historically were established to be the last refuge on difficult political questions, acting only when legislative and executive authorities had failed to meet their constitutional responsibilities. The Supreme Court ruled in Brown against Board of Education only when it became clear that no other relief would be forthcoming.

We in Congress and the President have now turned the constitutional tables. We act only if the Supreme Court tells us we have to act. We have placed the burden of insuring equal rights solely on the shoulders of the courts.

Letting the courts take the heat is convenient for us politically, but we are seriously undermining the authority of the judiciary in the process. The courts are not structured to be legislatures, and the rising opposition to court decrees threatens the legitimacy of the rule of law.

Court litigation is also an inefficient and unnecessarily abrasive way to proceed on a matter like integration. Courts decide issues on a case-by-case basis which does not lend itself to devising and implementing national programs. Issues must be tried in courtroom after courtroom, city after city, with each case being judged individually.

Litigation requires adversary proceedings with someone being found guilty of racism, overt discrimination, or illegal and unconstitutional actions. Ultimately a scapegoat is found, but by that time the entire community may well be embittered and more polarized than ever before. Once a decision to integrate is handed down, courts are unable to provide the money with which to implement their decrees.

Nonetheless, I am confident that after years of litigation in city after city in the North, we will be able to establish that so-called de facto or neighborhood segregation as it exists in the North is just as much the result of official action as the de jure or legal segregation of the South. School districting and zoning decisions, the drafting of building codes, government housing policies, and the location of schools often have been purposefully planned to separate the races residentially as well as educationally.

But do we need years of litigation to establish this? I think not. We all know the situation exists. There is enough guilt and responsibility to go around. We do not need to waste more time and money proving the point.

We would be better advised to acknowledge that a critical problem faces this country and then to devote our energies to solving that problem. Little will be gained by more arguments about who is to blame. A guilty conscience or criminal penalty never taught a youngster how to read.

Nonetheless, some supporters of integration oppose any major legislative moves now because it might interfere with the courts. I can only reply that the massive opposition to busing and integration now confronting us has resulted from only a handful of cases in cities like Richmond, Va.; Pontiac, Mich.; and Pasadena, Calif. To place all the burden on the courts, abdicate legislative re-

sponsibility and leave things as they are will only insure ultimate passage of regressive legislation. Judges read the newspapers as well as the election returns, and if the politicians all run for cover, the courts will soon be forced to follow.

The fault is not only on the part of those one would expect to support integration. Those in Congress, joining President Nixon in supporting fund cutoffs for busing, do their constituents a great disservice. Court-ordered integration and busing under the Constitution will continue no matter what we do here. Cutting off funds only deprives school districts of additional funds that are urgently needed. This is especially true in school districts throughout the South where school officials have watched with dismay as their representatives vote to deny them financial assistance.

To help focus the debate on solving the problem we all face as a nation, therefore, I am submitting today an amendment to establish a nationwide program of desegregation. I first introduced this amendment in November 1970 and reintroduced it last March in its present form.

My amendment recognizes that we cannot afford to ignore the lessons of the past 18 years. We now know that massive social changes cannot be required overnight, nor can they be deferred until some indefinite time in the future. My amendment therefore envisions a 2-year pilot program, provided by the committee bill, followed by 2 full years for planning at the local level on the basis of the experiences of this pilot program. Up to 10 years would then be allowed for implementation of the plans developed. Substantial progress would have to be made during each year of the plan, but the 10-year implementation period would allow local leaders and parents the time needed to insure that integration was a positive program implemented with the necessary planning and public education.

At the end of the 10 years, every school throughout each metropolitan area would have to have a percentage of minority group students equal to at least one-half the percentage of minority group students in the metropolitan area as a whole. In most metropolitan areas, the percentage of minority students is less than 20 percent. This means that minority-group students would have to make up at least 10 percent of each school in the area no later than 10 years after the plan began. This is only 3 or 4 students per class. I cannot believe that many Americans would object to this. All the public opinion polls show they would support it.

Even in the most heavily minority-group areas such as Baltimore where the minority group percentage is about 32 percent, there would be little difficulty. Under my amendment, each school in the Baltimore area would be required to have a minority group population of at least 16 percent no later than 10 years after adoption of an acceptable plan. This is only five or six in a class.

My amendment would not mandate any particular plan or set of plans to be imposed from community to community across the country. Instead, great flexibility would be left to those involved at the local level, including parents and community members as well as educators and school officials. A plan useful and acceptable in Chicago might be substantially different than the plan for Hartford, Conn., or Durham, N.C. In addition, a plan developed at the local level is much more likely to be supported by those in the community than one imposed by authorities from Washington or by a district court. The planning process itself will serve an educational function for those involved at the local level.

A number of possible techniques are identified in my amendment, including construction of magnet schools and educational parks together with school redistricting, pairing and transportation. But it should be clear that this is not simply or primarily a busing proposal. If transportation is identified as a useful technique in a city, my amendment requires that the burden shall fall equitably on minority and majority children. But, if we have to depend solely upon busing children from one area to another on a metropolitan-wide basis to achieve integration, we will fail no matter what bill or plan we adopt.

When I offered this same proposal last spring, it was defeated. For the first time, however, a civil rights bill was supported by Senators from every section of the country, Senators who were willing to place the national interest above regional prejudices. As a Democrat, I was particularly pleased that Senators BAYH, MCGOVERN, JACKSON, HUMPHREY, HUGHES, and MUSKIE—presidential contenders at the time—were willing to confront the issue directly and support my proposal. I was also happy to have the support of several distinguished Senators from the South including Senators STENNIS, FULBRIGHT, BAKER, and COOPER.

Even if my amendment is adopted, it will not be the complete answer. Educational desegregation alone is not enough. Until our society is integrated, black and white, rich and poor, no school integration plan will succeed.

Schools have borne the burden of integration alone too long. Success will come only if we open up the suburbs for housing as well as education. I intend therefore to offer an amendment to the housing bill which will soon be considered by the Senate. This amendment, the Government Facilities Location Act, requires Government facilities and Government contractors to expand or locate only in those communities willing to provide adequate housing for the facilities' low- and moderate-income employees. If enacted, it would be a significant first step toward ending the residential separation that breeds the educational segregation we now face.

I do not claim that these proposals are a panacea that will cure all our society's ills. But I am sure that the people of this country have a reservoir of common sense and decency and a great desire in these days of turbulence for reasonable, responsible leadership. Such leadership will not be found by consulting the latest public opinion polls. It will not be found in the continued mouthings of words we either do not mean or do not understand. It will only come from a willingness to recognize the danger we face and to deal with it honestly.

I submit the amendment.

The PRESIDING OFFICER. The amendment will be received and printed and will lie on the table.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that at this point in the RECORD the following items be inserted:

First. The text of the amendment I have submitted today;

Second. A section by section analysis of that amendment;

Third. Questions and answers relating to that amendment; and

Fourth. The Department of Health, Education, and Welfare's fall 1971 estimated projections of public school Negro enrollment.

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

AMENDMENT

Amendment No. 912. Add the following new title:

TITLE X

SEC. 101. (a) There are authorized to be appropriated to the Commissioner, for the purpose of carrying out title VII of this Act, $1,000,000,000 for the fiscal year ending June 30, 1974, and the same amount for the fiscal year ending June 30, 1975.

(b) None of the funds authorized under section 101(a) shall be available for expenditure under the provisions of section 8(a)(2) of title VII.

SEC. 202. It is the purpose of this title—

(a) to require State and local educational agencies in metropolitan areas throughout this country to develop and implement plans which will reduce and eliminate minority group isolation in our public schools, whatever the cause of such isolation; and

(b) to provide financial assistance to assist State and local educational agencies to develop and implement such plans.

DEFINITIONS

SEC. 301. As used in this title, except when otherwise specified—

(a) The term "minority group isolation" means a condition in which minority group children in a school constitute more than 50 per centum of the average daily enrollment of that school. The term "minority group isolated" refers to a school in which such condition of minority group isolation exists.

(b) The term "school" means those elementary and secondary public schools of a State which are located within a standard metropolitan statistical area (SMSA).

(c) The term "noncooperating local educational agency" means any local educational agency which refuses or has refused to participate in the preparation, submission, revision, or implementation of an acceptable plan as required by this title.

(d) The term "cooperating local educational agency" means any local educational agency that has participated in the preparation, submission, revision, and implementation of an acceptable plan as required by this title.

(e) The term "State" means any State in which there is an area defined as a standard metropolitan statistical area, and the District of Columbia.

(f) The terms "Standard Metropolitan Statistical Area" or "SMSA" means the area in and around cities of fifty thousand inhabitants or more as defined by the Office of Management and Budget: *Provided*, That the term shall mean only that portion of any

standard metropolitan statistical area which lies wholly within the boundaries of one State. Each portion of an SMSA in a different State shall be considered an independent SMSA for purposes of this title.

(g) The term "Federal educational funds" means Federal funds appropriated for grants, loans, contracts, or other financial assistance to a State educational agency, a local educational agency, an individual school, or to an individual in compensation for services rendered such organizations. This term shall not mean funds which go to individuals in the form of scholarships, fellowships, loans, cost-of-education payments, or other such assistance which is designed to further that individual's education, nor shall it mean funds which are to assist private, nonprofit organizations in the provision of education in preelementary and elementary situations.

THE PLAN

SEC. 401. Each State shall prepare and file with the Secretary for his approval, in accordance with regulations issued by him, a plan under which it will establish and supervise the operation in each SMSA of an SMSA agency to develop with the local educational agencies within the SMSA a plan to reduce minority group isolation in their schools: *Provided*, That, should any State refuse to comply with the provisions of this title, the local educational agencies within an SMSA may then independently create or assume control of such an SMSA agency.

SEC. 402. The plan developed by each such SMSA agency shall—

(a) contain the proposals by which the local educational agencies within an SMSA agree to reduce minority group isolation in their schools;

(b) provide that by a date approved by the Secretary, but in no event later than July 1, 1985, the percentage of minority group children enrolled in each school of the SMSA shall be at least 50 per centum of the percentage of minority group children enrolled in all the schools of that SMSA;

(c) include the use of techniques, as appropriate in local circumstances, such as redrawing school boundaries, creating unified school districts, pairing schools or school districts, establishing educational parks and magnet schools as well as other techniques designed to end as soon as possible minority group isolation in all schools within the SMSA;

(d) provide for the establishment of committees composed of local parents, teachers, and students, the members of such committees to be representative of the minority and majority population groups of the SMSA as a whole and the geographical areas within the SMSA, to advise the local education agencies and the SMSA agency, in open consultation including public hearings at which such persons have had a full opportunity to explore and discuss the program for which assistance is being sought and to offer recommendations thereon, regarding the development of the plan required by this title and to report periodically to the Secretary on the extent of compliance with the requirements of this title;

(e) set forth such policies and procedures as will insure that the program for which assistance is sought will be operated in consultation with, and the involvement of, parents of the children and representatives of the area to be served, including the committees established for the purposes of section 402(d);

(f) provide that in each year of operation of the plan, substantial progress toward fulfilling the requirements of this title shall be made; and

(g) provide that State financial assistance to local educational agencies within each SMSA shall not be so calculated, based, rated, or fixed in any manner as to result in the condition that the per pupil contribution of the State to any minority group isolated school within the SMSA shall be less than per pupil contribution of the State to any nonminority group isolated school within the SMSA.

SEC. 403. (a) The plan required by section 402 must be submitted to and approved by the Secretary no later than July 1, 1975.

(b) The Secretary is authorized to promulgate and issue regulations regarding the time and manner of submission of such plans for his approval.

SEC. 404. In extreme and unusual cases should the Secretary determine that the size, shape, or population distribution of an SMSA would make inclusion of some parts of that SMSA in a plan unnecessary for fulfillment of the purposes of this title or excessively disruptive of the educational process, he may exempt such parts from participation in the plan. Such exemptions shall be in writing, fully explained and justified, and freely available to the public and the committees established for the purposes of section 402(d).

SEC. 405. Each SMSA agency shall annually prepare and file in accordance with regulations issued by the Secretary a report setting forth the results achieved under the plan and any necessary amendments to the plan to correct any deficiency of the plan. The Secretary shall assure that the plan and any reports filed with the Secretary in accordance with this section shall be made readily available to the public and to the committees established for the purposes of section 402(d).

SEC. 406. The Secretary is directed to review annually the plan and the reports of each SMSA agency. If the Secretary finds that for any reason the purposes of this title are not being effectuated by the plan and any amendments thereto he shall, after giving appropriate notice to all concerned parties, withdraw his approval of the plan and each local educational agency in question will be treated as a noncooperating local educational agency: *Provided*, That if within a period prescribed by the Secretary, but in no event exceeding one hundred and eighty days following the Secretary's withdrawal of approval, the local educational agencies through their SMSA agency submit a revised plan approved by the Secretary, the local educational agencies within the SMSA shall be entitled to receive all funds withheld during the period.

SEC. 407. (a) Because of its unique circumstances, the SMSA for the District of Columbia shall include for purposes of this title Montgomery and Prince Georges Counties in Maryland, Arlington, Fairfax, and Prince William Counties in Virginia, and the cities of Falls Church and Alexandria in Virginia, notwithstanding the provisions of section 301(f) of this title.

(b) A single plan shall be designed and submitted by all local educational agencies included in the District of Columbia SMSA: *Provided*, That the existence of nonoperating local educational agencies within this SMSA shall not affect the status of cooperating local educational agencies.

SEC. 408. No State or local educational agency shall formulate or administer its plan in a manner that will result in the separation of minority group children within a school or classroom.

FINANCIAL ASSISTANCE

SEC. 501. PLANNING FUNDS.—

(a) Within six months of the date of enactment of this title, the Secretary shall notify each State and local educational agency within an SMSA of the requirements of this title.

(b) The Secretary shall issue regulations establishing procedures and a timetable according to which SMSA agencies required to file a plan under this title may apply for funds authorized to be appropriated by this title.

(c) Upon application meeting the standards established by the Secretary, the Secretary shall grant to each SMA agency funds for the development of a plan to reduce minority group isolation pursuant to the requirements of this title, the amount of such funds being determined by the number of minority group students and the number of all students enrolled in schools in the SMSA.

SEC. 502. (a) Each year following the implementation of an approved plan, cooperating local educational agenices, through their SMSA agency, may submit to the Secretary applications for financial assistance.

(b) An application for assistance under this title may be approved by the Secretary only if he determines that—

(1) such application—

(A) sets forth a plan which is sufficiently comprehensive to offer reasonable assurance that it will achieve one or more purposes for which grants may be made under this title; and

(B) contains such other information, terms, conditions, and assurances as the Secretary may require to carry out the purposes of this title;

(2) the applicant has adopted effective procedures for the continuing evaluation of programs or projects under this title;

(3) the programs or projects for which assistance is sought will not result, and in the case of an ongoing program or project has not resulted in an increase in the percentage of racial separation in any school.

(4) no part of the assistance provided under this title shall be used to supplant funds, equipment, or services which are used to assist any private school. Should any funds provided under this title be used for this purpose, or for any other purpose that the Secretary finds to be inconsistent with the purposes of this title, the Secretary shall file suit in the United States District Court for the District of Columbia against either the school which received such funds or the State educational agency, or both, for restitution of the funds.

(c) Upon the submission and approval of such an application, the Secretary is authorized to provide a cooperating local educational agency with sufficient funds to meet its obligations under its approved plan.

(d) Funds provided under this section may be used for the following purposes or any other purposes the Secretary finds will promote an end to minority group isolation:

(1) establishing and constructing magnet schools or educational parks in locations chosen to reduce the degree of minority group isolation in the schools of the SMSA;

(2) providing additional staff members including paraprofessionals to provide guidance, counseling, and training to assist minority group children in adjusting to a nonminority group isolated school environment;

(3) providing counseling, retraining, and guidance for professional and other staff members who will be working with minority group children;

(4) developing and implementing interracial educational programs and projects involving the joint participation of minority group and nonminority group children attending different schools, including extracurricular activities and cooperative exchanges or other arrangement between schools within the same or different school districts;

(5) providing such additional transportation for children as may be necessitated by the plan developed pursuant to this title: *Provided*, That in the review and approval of SMSA plans under this title, the Secretary shall assure that any burden of transportation shall fall equitably on both minority and majority children;

(6) expanding or altering facilities to accommodate students transferred under the plan;

(7) community activities, including public education efforts, in support of the plans, programs, projects, or other activities developed pursuant to this title;

(8) planning and evaluation activities and expenses of administration;

(9) work study programs to provide the financial assistance necessary for minority group children to complete their education; and

(10) other specially designed programs or projects which meet the purposes of this title.

(e) No funds granted under this title may be used to supplant State or local educational funds presently being expended by State and local educational agencies.

(f) The Secretary shall issue regulations establishing procedures and a timetable according to which State and local educational agencies entitled to apply for financial assistance under this title may apply to the Secretary for funds authorized to be appropriated by this section.

RESTRICTIONS ON FEDERAL FINANCIAL ASSISTANCE

SEC. 601. (a) No noncooperating local educational agency shall be entitled to receive any Federal educational funds: *Provided,* That the presence within an SMSA of a noncooperating local educational agency shall not affect the eligibility of cooperating local educational agencies in the SMSA to receive Federal educational funds.

(b) No State that fails to participate in the preparation, submission, revision, and implementation of any plan or plans required by this title, and no State that continues to provide State funds or assistance after July 1, 1975, to any non-cooperating local educational agency under section 401 shall be entitled to receive any Federal educational funds.

APPROPRIATIONS

SEC. 701. (a) For the fiscal years beginning July 1, 1973, and July 1, 1974, respectively, there is authorized to be appropriated $25,000,000 each year to be used by SMSA agencies to develop and promulgate the plan herein required to be filed.

SEC. 702. For the fiscal years beginning July 1, 1975, and for each of the nine fiscal years following, there is authorized to be appropriated $2,000,000,000 each year for purposes of carrying out this title.

SEC. 703. Funds so appropriated shall remain available for obligation for one fiscal year beyond that for which they are appropriated.

JUDICIAL REVIEW

SEC. 801. (a) Any person affected by the enforcement or nonenforcement in the SMSA in which he resides of any provision of this title may petition the Secretary for an expedited hearing of his complaint.

(b) Within sixty days of receiving such petition the Secretary shall hold a formal hearing to determine whether the provisions and purposes of this title are being carried out in the cause raised by the petitioner. A transcript shall be kept of the proceedings of the hearing.

(c) Within thirty days after the date of the hearing, the Secretary shall issue a decision in writing which sets forth his findings and appropriate orders.

(d) The Secretary's decision shall be reviewable, upon petition, by the United States Court of Appeals for the District of Columbia circuit. The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(e) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

LAWS REPEALED

SEC. 901. The following provisions of law are hereby repealed:

(a) Section 181 of the Elementary and Secondary Education Act Amendments of 1966.

(b) Section 422 of the Elementary and Secondary Education Act Amendments of 1970.

(c) Section 2 of the Elementary and Secondary Education Act Amendments of 1970.

(d) Sections 102(d) and 205(f) of the Demonstration Cities and Metropolitan Development Act of 1966.

(e) Section 401(b) of the Civil Rights Act of 1964.

SECTION-BY-SECTION ANALYSIS

Sections 201 and 202. State that the purpose of this Act is to end minority group isolation in the public schools of our nation's metropolitan areas regardless of the origin of such isolation.

Section 301. Provides definitions of terms used throughout the Act. The term "minority group children" includes Negro, American Indian, or Spanish-surnamed Americans, and, as determined by the Secretary, children from environments where the dominant language is other than English. "Minority group isolation" is a situation where minority group children in a school constitute more than 50% of the average daily enrollment of that school. "Standard Metropolitan Statistical Area" or "SMSA", as defined by the Office of Management and Budget, is the area in and around cities of 50,000 inhabitants or more.

Section 401. Requires each state to prepare and file an acceptable plan pursuant to which it will establish and supervise the operation of an SMSA agency, within each SMSA, to develop with local educational agencies a plan to reduce minority group isolation in their schools.

Section 402 (generally). Sets forth the requirements of the plan to be prepared.

Section 402(b). The plan must insure that, no later than July 1, 1983, the percentage of minority group children enrolled in each school of the SMSA shall be at least half the percentage of minority group children enrolled in all schools in the SMSA.

Section 402(c). As appropriate in local circumstances the plan must use such techniques as redrawing school boundaries, creating unified districts, and establishing magnet schools and educational parks so as to end minority group isolation in all schools within the SMSA.

Section 402(d). Local committees of parents, teachers, and students representative of minority and majority groups and the geographical areas within the SMSA must be established to advise the local education agencies and SMAS agency in open consultation regarding the development of the plan and must report periodically to the Secretary on the extent of compliance with the requirements of this Act.

Section 402(e). Provides that parents of the children and representatives of the areas must be consulted and involved in the operation of the proposed programs.

Section 402(f). Substantial progress toward the goal must be demonstrated in each year of operation of the plan.

Section 402(g). Per pupil contributions of the State to any minority-group isolated school shall not be less than per pupil contributions to non-minority group isolated schools.

Section 403. Requires submission of the plan and approval by the Secretary no later than July 1, 1973.

Section 404. Allows the Secretary in extreme and unusual cases to exempt portions of an SMSA from the plan where necessary because of the size, shape or population distribution of an SMSA.

Section 405. Each SMSA agency must file an annual report setting forth the results achieved under the plan. The Secretary must assure the ready availability of the plan to the public and the local committees.

Section 406. The Secretary must review each plan and report for each SMSA agency annually and require revised plans where necessary.

Section 407. Provides that the District of Columbia SMSA shall include those parts of the metropolitan areas lying in Virginia and Maryland.

Section 408. Prohibits the formulation or administration of a plan in any way that will result in separation of minority group children within a school or a classroom.

Section 501. Provides Federal funds for each SMSA agency for development of the plan required by this Act.

Section 502 (generally). Provides Federal financial assistance for implementation of an approved plan. No Federal funds are to be used to supplant funds, equipment, or services that are used to assist any private school. The Secretary is given power to file suit for restitution of any funds used for these purposes.

Section 502(d). Describes the purposes for which funds provided may be used including, among others, establishing and constructing magnet schools and educational parks, providing additional staff members, and the necessary counselling, retraining and guidance for those working with minority group children, furnishing transportation where necessary (provided that any burden of transportation shall fall equitably on both minority and majority group children) and expanding or altering facilities to accommodate students transferred.

Section 502(e). Prohibits the supplanting of State or local educational agency funds presently being expanded.

Section 601. Any local educational agency in an SMSA refusing to cooperate in the formulation or implementation of a plan shall not be entitled to receive any Federal educational funds. Likewise, any State failing to participate in the preparation, submission, revision or implementation of any plan required by the act and any State continuing to provide State funds to any noncooperating local educational agency shall not be entitled to receive Federal education funds. The presence within an SMSA of a noncooperating local educational agency does not affect the eligibility for Federal funds of the remaining cooperating local educational agencies.

Section 701. Provides $25 million for each of two years for SMSA's to develop and promulgate the plans required.

Sections 702 and 703. Authorizes $2 billion a year for each of ten years to implement the plans developed pursuant to this Act.

Section 801. Provides for expedited hearings by the Secretary for complaints concerning the enforcement or nonenforcement of provisions of this Act. Review of the Secretary's final decision lies with the United States Court of Appeals for the District of Columbia Circuit.

Section 901. Repeals those provisions of law which would interfere with the operation of this Act, particularly those forbidding the use of Federal funds to overcome racial imbalance.

QUESTIONS AND ANSWERS RELATING TO RIBICOFF AMENDMENT

Q. How does your education bill relate to the Administration's proposed Emergency School Aid Act?

A. The President's bill primarily provides

assistance only to those school systems proceeding under court-ordered desegregation. This, by definition, focuses primarily on the South and single school districts. The President's bill does not confront directly the problem of de facto segregation on a metropolitan basis.

Q. Isn't the basis of the problem of educational segregation to be found in residential housing patterns?

A. That's exactly what I argued months ago on the floor of the Senate. We can't consider problems of educational segregation apart from problems of residential segregation. That's why I will also urge passage of my bill designed to assist suburbs in providing low-income housing.

Q. Won't your bills encourage migration outside SMSA's?

A. Almost 70% of the population already live within SMSA's. It would be difficult for large numbers of them to move far enough away to be beyond an SMSA and still within reach of their jobs. Moreover, the percentages of minority groups involved in integration are not large enough to generate the threat of white flight that presently exists within our central cities. Public opinion polls have demonstrated that most Americans support integration in their neighborhoods as long as it is within manageable proportions.

Q. Don't many black leaders today believe integration is irrelevant if not actually undesirable?

A. Yes. And a lot of whites could not be more pleased with that development. In many ways it is a result of the failure of the white community to do any more than talk about the importance of integration. Nonetheless, the majority of blacks in this country still seek and desire integration and the purpose of my bills for integrating housing as well as education is to provide them with that opportunity.

Q. Isn't your education legislation just a thinly disguised busing bill?

A. No. Busing is one technique which local districts in an SMSA might choose to employ, but there is no requirement that they do so. In many situations, substantial integration can be achieved with little or no significant transportation above that now being undertaken. Ultimately, no bill relying totally on busing will succeed. Only by integrating neighborhoods as we integrate our schools will we be able to end racial isolation in this country.

Q. Why was a ten-year period chosen for achieving school integration?

A. That is only to be a maximum period. Some districts can meet the requirements in a lesser period of time. However, it is important to look at this problem realistically and not naively expect that we can change patterns of housing and education on a metropolitan basis overnight or even in two years. If we can achieve the goals of my bills within ten years, we will have made a major move away from the development of two separate societies.

Q. How and why did you choose a goal requiring each school in the metropolitan area to have a percentage of minority-group students that is at least one-half of the percentage of the minority-group school population in the metropolitan area as a whole?

A. As my legislation makes clear, the percentage requirements at the end of a ten year period are simply minimums. In most SMSA's the requirement will be between 10 and 15 percent of the school population and, therefore, will generally reflect the percentage of minority group persons in the population as a whole.

Q. How will your school bill effect the growth and development of private schools?

A. It is hard to predict the impact of my bill on the development of private schools. The percentage of blacks moving into suburban schools will be small enough, and over such a long enough period of time, that few whites will feel so threatened that they will incur the large expense of placing their children in private schools.

Q. Your education bill says that no state which continues to provide state funds to a noncooperating local educational agency shall be entitled to receive federal educational funds. Does this mean that an entire state will lose federal funds if it continues to aid just one noncooperating agency? If so, do you believe that this will penalize more children than it will benefit?

A. I agree that it would be unwise to cut off all Federal funds to all local school districts simply because one school district does not cooperate. My bill specifically provides that cooperating local educational agencies are to continue to receive state and local funds even if there is a noncooperating educational agency in their SMSA. However, the states, themselves, receive Federal funds for state-wide activities as distinguished from Federal funds channeled through the states to specific local educational agencies. These funds would be cut off if a state continued to provide state funds to a noncooperating local educational agency. The political realities are such that local pressures will generally result in state cut-offs of funds to noncooperating agencies rather than rejection of Federal funding for state-wide programs.

Q. Nonetheless, won't many suburban school districts simply decide to do without federal aid rather than comply with the requirements of your education act.

A. The act will also cut off federal educatonal funds for any state that continues to supply state funds to a noncooperating school district. Therefore, a suburban school district will have to do without both state and federal funds if it does not want to follow the requirements of this act. Not many will be able to do that.

Q. Won't there still be a possibility of all black central city schools?

A. Yes, but it is my hope that the development of new school construction and imaginative educational programs in the central city will alleviate much of this problem by attracting white students in the city. Moreover, the impetus behind much of the so-called "white flight" to the suburbs will fade away once it becomes clear that the racial situation is stabilizing and the suburbs are not a white sanctuary.

Q. What about the District of Columbia?

A. The District must receive separate treatment, since all of its suburbs are in other states. This my education bill does.

Q. Aren't some metropolitan areas so large or irregularly shaped that difficulties will be encountered in developing a school plan.

A. The bill gives the Secretary of HEW discretion to take such unusual factors into consideration.

Q. What about metropolitan areas that cross state lines?

A. My bill provides that each portion of a metropolitan area within a state would be treated separately for purposes of the education act. This does not present a problem since in all cases there are blacks and whites on both sides of the state lines.

Q. If the focus is on large metropolitan areas what say will local residents have in the development of their school integration plan and its implementation?

A. My bill requires that any plan submitted for approval must provide for establishment of multiracial committees composed of local parents and students who are representative geographically and racially of the population for the SMSA as a whole. Open hearings must be held and full opportunity for discussion and exploration of the issues must be guaranteed. Provisions must be made for the continuing involvement of these committees during implementation of the plan. In addition, the bill requires the Secretary to assure that all plans and progress reports are made freely available to the public and to the multiracial committees in each SMSA.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, OFFICE FOR CIVIL RIGHTS

FALL 1971 ESTIMATED PROJECTIONS OF PUBLIC SCHOOL NEGRO ENROLLMENT COMPARED WITH FINAL FALL 1968 AND 1970 DATA [1]

Geographic area	Total pupils	Negro pupils		Negro pupils attending schools which are—					
				0–49.9 percent minority		80–100 percent minority		100 percent minority	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent
Continental United States:									
1968	43, 353, 568	6, 282, 173	14.5	1, 467, 291	23.4	4, 274, 461	68.0	2, 493, 398	39.7
1970	44, 877, 547	6, 707, 411	14.9	2, 223, 506	33.1	3, 311, 372	49.4	941, 111	14.0
1971 estimate	44, 691, 675	6, 724, 956	15.0	2, 393, 824	35.6	3, 084, 785	45.9	778, 832	11.6
Difference 1970–71	−189, 872	17, 000	0.1	170, 318	2.5	−226, 587	−3.5	−162, 279	−2.4
32 North and West: [2]									
1968	28, 579, 766	2, 703, 056	9.5	746, 030	27.6	1, 550, 440	57.4	332, 408	12.3
1970	29, 451, 976	2, 889, 858	9.8	793, 979	27.5	1, 665, 926	57.6	343, 629	11.9
1971 estimate	29, 299, 586	2, 913, 047	9.9	810, 895	27.8	1, 664, 771	57.1	325, 874	11.2
Difference 1970–71	−152, 390	23, 189	.1	16, 916	.3	−1, 155	−.5	−17, 755	−.7
11 South: [3]									
1968	11, 043, 485	2, 942, 960	26.6	540, 692	18.4	2, 317, 850	78.8	2, 000, 486	68.0
1970	11, 570, 351	3, 150, 192	27.2	1, 230, 868	39.1	1, 241, 050	39.4	443, 073	14.1
1971 estimate	11, 551, 697	3, 139, 436	27.2	1, 377, 847	43.9	1, 010, 558	32.2	290, 390	9.2
Difference 1970–71	−18, 654	−10, 756	.0	146, 979	4.8	−230, 492	−7.2	−152, 683	−4.9
6 Border and District of Columbia: [4]									
1968	3, 730, 317	636, 157	17.1	180, 569	28.4	406, 171	63.8	160, 504	25.2
1970	3, 855, 221	667, 362	17.3	198, 659	29.8	404, 396	60.6	154, 409	23.1
1971 estimate	3 840, 392	672, 473	17.5	205, 082	30.5	409, 456	60.9	162, 568	24.2
Difference 1970–71	−14, 829	5, 111	.2	6, 423	.7	5, 060	.3	8, 159	1.1

[1] 1971 figures are estimations based on latest available data and are subject to change upon final compilation.

[2] Alaska, Arizona, California, Colorado, Connecticut, Idaho, Illinois, Indiana, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, Montana, Nebraska, Nevada, Hew Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Washington, Wisconsin, and Wyoming.

[3] Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, and Virginia.

[4] Delaware, District of Columbia, Kentucky, Maryland, Missouri, Oklahoma, and West Virginia.

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW AND FOR UNFINISHED BUSINESS TO BE LAID BEFORE THE SENATE

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that at the conclusion of remarks by the distinguished senior Senator from Virginia (Mr. BYRD) tomorrow there be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements limited therein to 3 minutes, at the conclusion of which the Chair lay before the Senate the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

EDUCATION AMENDMENTS OF 1972

The Senate continued with the consideration of the House amendment to S. 659, a bill to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, and related acts, and for other purposes.

UNANIMOUS-CONSENT REQUEST

Mr. BYRD of West Virginia. Mr. President, the distinguished majority leader has contacted me to ask that I submit the following unanimous-consent request.

I ask unanimous consent that time for debate on the pending committee substitute for the House amendment to S. 659 be limited to not to exceed 6 hours daily on Wednesday, Thursday, and Friday of this week, and 6 hours daily on Monday and Tuesday of next week; and that such time be equally divided between and controlled by the majority and minority leaders or their designees.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, reserving the right to object and I shall not object, I think it might be said for the record that this is to assure that time which would ordinarily be available on the bill—but in this instance rather than the bill it is the committee substitute to the House bill—would be fairly apportioned and that those with opposing views would have an opportunity to get the floor in the event such time is available.

Is that the purpose of the agreement?

Mr. BYRD of West Virginia. The Senator is correct. It would assure equal apportionment of, and control of, time on the committee substitute for the House amendment, in the nature of a substitute, to S. 659 at all times when no amendment to the committee substitute is pending before the Senate.

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

Mr. BYRD of West Virginia. I yield.

Mr. JAVITS. It is understood, of course, that this is the kind of time which can be allotted to given Members, either in block or partially, because the majority and minority leaders are really custodians of the time. Is that not correct?

Mr. BYRD of West Virginia. The Senator is correct.

Mr. PELL. Mr. President, also, is it not correct that if there is time available and not being used, it can be ceded for other purposes of the Senate; it does not have to be used?

Mr. BYRD of West Virginia. That is correct; it can be yielded back, and each day it would not exceed 6 hours, which I think would be sufficient daily to carry the Senate at least to the hour of 5 p.m. or 5:30 p.m., or, in some instances perhaps 6 p.m., but it need not all be used.

Mr. JAVITS. May we also have an understanding—and I am perfectly willing to rely upon the majority and minority leaders to use their good judgment—about not unduly extending time on particular amendments? It would be possible under this proposal to yield hours on an amendment. I am not trying to provide for that in the unanimous consent request, but to utter a caveat that our leadership will exercise reasonable discretion in allotting extra time on an amendment. They can always yield time on the bill, but this can be taken care of if they exercise discretion.

Mr. BYRD of West Virginia. My request did not provide for yielding time on any amendment from the time allotted to the committee substitute.

Mr. JAVITS. So it could not be done?

Mr. BYRD of West Virginia. It could not be done under my request.

Mr. JAVITS. Very well.

The PRESIDING OFFICER. Is there objection to the unanimous consent request? The Chair hears none, and it is so ordered.

The unanimous-consent agreement is as follows:

UNANIMOUS-CONSENT AGREEMENT

Ordered, That, during the consideration of the message from the House on S. 659, the committee amendment in the nature of a substitute for the House amendment to S. 659 be treated as original text for the purpose of amendment and that debate on every amendment to the committee amendment be limited to 2 hours to be equally divided and controlled between the mover of the amendment and the manager of the bill, unless the manager of the bill favors the amendment in which case the time in opposition would be controlled by whomever the Majority Leader designates. *Provided further,* That time on any appeal, point of order or debatable motion shall be limited to ½ hour with the time to be equally divided and controlled by the mover and the manager of the bill, unless the manager of the bill favors the proposition, in which case the time in opposition shall be controlled by whomever the Majority Leader designates.

Ordered further, That, the vote on final disposition of the matter shall occur no later than 2 p.m. on Wednesday, March 1, 1972.

Ordered further, That debate on the pending motion to concur in the House amendment with the committee substitute be limited not to exceed 6 hours each day until Wednesday to be equally divided and controlled by the Majority and Minority Leaders or their designees.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum, and I assume this will be the final quorum call of the day.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD of West Virginia. Mr. President, the Senate will proceed as follows on tomorrow:

The Senate will convene at 10 o'clock a.m. After the two leaders have been recognized, the distinguished senior Senator from Virginia (Mr. BYRD) will be recognized for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes, at the conclusion of which the Chair will lay before the Senate the unfinished business. The unfinished business is the Senate committee substitute for the House amendment in the nature of a substitute for S. 659, an act to amend the Higher Education Act of 1965.

There is a time agreement on the committee substitute and on each amendment thereto, and also on each debatable motion, point of order, or appeal in respect thereto.

Roll call votes may occur on tomorrow. Senators may expect and anticipate—and should do so—roll call votes daily throughout the remainder of this week.

ADJOURNMENT UNTIL 10 A.M.

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 o'clock a.m. tomorrow.

The motion was agreed to; and at 5:37 p.m. the Senate adjourned until tomorrow, Wednesday, February 23, 1972, at 10 a.m.

HOUSE OF REPRESENTATIVES—*Tuesday, February 22, 1972*

The House met at 12 o'clock noon.

Rev. Paul D. Moore, Woodland Heights Baptist Church, Chesapeake, Va., offered the following prayer:

Our Father, source of life and giver of strength, we come to Thee in humility.

We give Thee thanks for the influence of our Nation in the past, its leadership in the present, its role yet to be observed in the future.

Praising Thee for the larger area of life's surroundings and history, we come with immediate intercession in behalf of this government body—elected by man, may they be blessed by God.

Wisdom is promised from above. May this rest upon our Representatives during the period of trials and transition. Send the wisdom "liberally and without upbraiding"—James 1: 5.